

NOTICE OF MEETING

CITY OF BRANSON



BOARD OF ALDERMEN

Regular Meeting – Tuesday, January 11, 2011 – 7:00 p.m.
Council Chambers – Branson City Hall – 110 W. Maddux

BRANSON BOARD OF ALDERMEN AGENDA

January 11, 2011

7:00 p.m.

**Meeting Called to Order
Pledge of Allegiance
Invocation – Carl Sparks
Roll Call**

Employee of the Month – Charlie Earnhardt of the Parks and Recreation Department to be presented by Alderman Cris Bohinc.

PUBLIC COMMENT:

To speak during public comment, please sign the speaker sign-up sheet located at the front door of the council chambers prior to the start of the meeting.

CONSENT AGENDA:

- 1) Approval of Board of Aldermen Minutes:
 - a) December 9, 2010 Study Session**
 - b) December 14, 2010 Special Meeting**
 - c) December 14, 2010 Regular Meeting**
 - d) December 16, 2010 Special Meeting****
- 2) Acknowledge Receipt of Minutes:
 - a) P&Z Study Session of October 5, 2010**
 - b) P&Z Regular meeting of October 5, 2010**
 - c) Tree Board meeting of October 13, 2010**
 - d) Tree Board meeting of November 10, 2010****
- 3) Final Reading of Bill No. 3877 amending the adopted 2011 Budget for the City of Branson, to adjust monies for the General Fund and authorizing the Mayor to execute the same.**
- 4) Final Reading of Bill No. 3878 amending Chapter 86 of the Branson Municipal Code pertaining to emergency and experimental regulations.**
- 5) Final Reading of Bill No. 3879 authorizing the Mayor to execute an amendment to the Professional Engineering Services Agreement with Delich, Roth, & Goodwillie, P.A. pertaining to the design of the Route 248 at US 65 Diverging Diamond Interchange Project and authorizing the Mayor to enter into the agreement.**
- 6) Final Reading of Bill No. 3880 amending Chapter 22 of the Branson Municipal Code pertaining to dangerous buildings.**

- 7) **Final Reading of Bill No. 3881 amending Chapter 58 of the Branson Municipal Code pertaining to nuisance.**
- 8) **Final Reading of Bill No. 3882 amending Chapter 58 of the Branson Municipal Code pertaining to graffiti.**
- 9) **Final Reading of Bill No. 3883 amending Chapter 34 of the Branson Municipal Code pertaining to administrative search warrants.**
- 10) **Final Reading of Bill No. 3884 amending Chapter 58 of the Branson Municipal Code pertaining to offenses against property.**
- 11) **Final Reading of Bill No. 3885 amending Chapter 10 of the Branson Municipal Code pertaining to public nuisances.**
- 12) **Final Reading of Bill No. 3886 amending Chapter 26 of the Branson Municipal Code pertaining to inspections.**
- 13) **Final Reading of Bill No. 3887 amending Chapter 22 of the Branson Municipal Code pertaining to International Property Maintenance Code.**
- 14) **Final Reading of Bill No. 3888 amending Chapter 38 of the Branson Municipal Code pertaining to International Fire Code.**
- 15) **Final Reading of Bill No. 3889 amending Chapter 46 of the Branson Municipal Code pertaining to public health and sanitation.**
- 16) **Final Reading of Bill No. 3890 amending Chapter 86 of the Branson Municipal Code pertaining to vehicles.**

REGULAR:

- 17) **Final Reading of Bill No. 3868 accepting the proposal of F2 Industries, LLC for the purchase of Potassium Permanganate and Granular Chlorine used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract.**
- 18) **Public Hearing and First Reading of Bill No. 3891 approving the annexation of property located at 412 Owen Lane.**
- 19) **Public Hearing and First Reading of Bill No. 3892 approving the annexation of property located at 101 Covered Bridge Drive.**
- 20) **First Reading of Bill No. 3893 approving an agreement with Tri-States Utility for sewer billing services of city sewer customers connected to Tri-States Utility Water System and authorizing the Mayor to execute the contract.**

BID AWARDS:

- 21) First Reading of Bill No. 3894 accepting the proposal of Tri-Lakes Ford pertaining to the purchase of vehicles for the Police Department and authorizing the mayor to execute the contract.
- 22) First Reading of Bill No. 3895 accepting the proposal of Brenntag Mid South, Inc. for potassium permanganate used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract.
- 23) First Reading of Bill No. 3896 accepting the proposal of Custom Products Corporation pertaining to signage supplies and authorizing the Mayor to execute the contract.
- 24) First Reading of Bill No. 3897 accepting the proposal of Ibis Tek Apparel LLC. pertaining to signage supplies and authorizing the Mayor to execute the contract.
- 25) First Reading of Bill No. 3898 accepting the proposal of Key Equipment & Supply Co. pertaining to an Elgin Pelican Street Sweeper and authorizing the Mayor to execute the contract.

RESOLUTIONS:

- 26) A Resolution consenting to Assignment of Lease and Deed Trust of Leasehold Estate and Security Agreement by Recreational Investments and Management, Inc. to Ozark Mountain Bank and authorizing the Mayor to execute same.
- 27) A Resolution approving City of Branson's Blue Access PPO Health Insurance Summary of Benefits.

MAYOR/CITY ALDERMEN/CITY ADMINISTRATOR'S REPORTS

ADJOURN INTO EXECUTIVE SESSION

Closed Executive Session pursuant to 610.021.1 RSMo for litigation, 610.021.2 RSMo for real estate and 610.021.3 RSMo for personnel.

ADJOURN

**Branson Board of Aldermen
Staff Report and Recommendation**

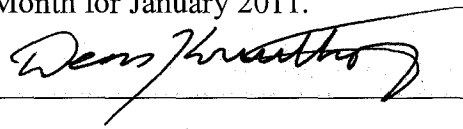
ITEM/SUBJECT: RECOGNIZING CHARLIE EARNHARDT OF THE PARKS & RECREATION DEPARTMENT AS THE JANUARY EMPLOYEE OF THE MONTH.

DATE: JANUARY 11, 2011

INITIATED BY: PUBLIC INFORMATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend Charlie Earnhardt as Employee of the Month for January 2011.



ALDERMAN REPORT:

It is with pleasure that I introduce the January Employee of the Month – Charlie Earnhardt, a Gardener in the Parks and Recreation Department.

Charlie is responsible for planting, pruning, watering and general care of plants and flowers in the city's parks and public facilities. It's a big job since there are numerous planting and flower beds throughout the city. Charlie also propagates many of the flowers that he plants in the RecPlex greenhouse. This results in considerable savings to the city. He also practices conservation by composting old plants in fertilizer.

Charlie has always taken particular care and interest in the appearance of the landscaping here at City Hall. Because of the number of people coming to City Hall, he makes sure the flowers and plants look vibrant and bloom in every season. Flowers are rotated in the spring, summer and fall to provide variety and color year round.

In addition, Charlie saw an increase in his workload last year with the landscaping at the intersections of Highways 76 and 65. These areas are also high profile and serve as the first impression for visitors to Branson.

His work ethic is evident in the attractive appearance of the city flower beds. People have commented on his effort and dedication to beautify our community. He also represents the Branson values of preserving nature for the enjoyment of all and responsible stewardship of city resources.

On behalf of the Mayor, Board of Aldermen and City Administrator, I congratulate you, Charlie, on being our January Employee of the Month. We appreciate the job you do!

MINUTES

STUDY SESSION OF THE BOARD OF ALDERMEN CITY OF BRANSON, MISSOURI December 9, 2010

LUNCH

The Board of Aldermen of the City of Branson, Missouri met for lunch in the Administrative Conference Room of the City Hall on December 9, 2010, at 12:00 p.m.

INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri met for a study session in the Municipal Courtroom of the City Hall on December 9, 2010, at 12:30 p.m.

Mayor Presley presiding, Rick Davis, Sandra Williams, Cris Bohinc, Bob Simmons and Mike Booth present. Absent: Rick Todd.

Also present from the City were: City Administrator Dean Kruithof, City Clerk Lisa Westfall, City Attorney William Duston, Communications Director Jerry Adams, Public Works Director and City Engineer David Miller, Planning and Development Director Jim Lawson, Parks and Recreation Director Cindy Shook, Information Technology Director D.J. Cline, Finance and Personnel Director Lori Helle, Economic Development Director Garrett Anderson and Utilities Director Mike Ray.

AGENDA

Administrator's Report.

Discussion of previous Study Session items.

Review of December 14, 2010 Agenda.

Review of EPC Energy Performance Contract.

Discussion regarding 2011 Legislative Priorities.

Discussion regarding business license ordinance.

Mayor's Report.

ADJOURN

Mayor Presley asked for a motion to adjourn. Alderman Booth moved to adjourn, seconded by Alderman Williams. Voting aye: Davis, Williams, Bohinc, Simmons and Booth. Nays: none. Absent: Todd. Motion carried. Meeting adjourned at 2:50 p.m.

Raeanne Presley
Mayor

Lisa K Westfall
City Clerk

MINUTES

**SPECIAL MEETING OF THE BOARD OF ALDERMEN
CITY OF BRANSON, MISSOURI
December 14, 2010**

INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri met for a special meeting in the Administrative Conference Room of Branson City Hall, Branson, Missouri on December 14, 2010, at 6:00 p.m. The following members were present:

Mayor Presley presiding, Mike Booth, Sandra Williams, Bob Simmons, Cris Bohinc and Rick Todd present. Absent: Rick Davis.

Also present from the City were: City Administrator Dean Kruithof, City Attorney William Duston, and City Clerk Lisa Westfall.

EXECUTIVE SESSION

Mayor Presley entertained a motion to adjourn to a closed Executive Session. Alderman Williams moved to go into Closed Executive Session pursuant to 610.021.1 RSMo for litigation and 610.021.3 RSMo for personnel, seconded by Alderman Booth. Voting aye: Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Absent: Davis. Motion carried.

ADJOURN

At this time, Mayor Presley asked for a motion to adjourn. Alderman Bohinc moved to adjourn, seconded by Alderman Todd. Voting aye: Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Absent: Davis. Motion carried. Meeting adjourned at 6:02 p.m.

Raeanne Presley
Mayor

Lisa K Westfall
City Clerk

MINUTES

THE REGULAR MEETING OF THE BOARD OF ALDERMEN CITY OF BRANSON, MISSOURI December 14, 2010

INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri met in regular session in the Council Chambers of the City Hall on December 14, 2010, at 7:00 p.m. Mayor Presley called the meeting to order with the "Pledge of Allegiance" and Garrett Anderson gave the invocation.

ROLL CALL

City Clerk Westfall called roll: Mayor Presley presiding, Rick Davis, Mike Booth, Sandra Williams, Bob Simmons, Cris Bohinc and Rick Todd present.

Also present from the City were: City Administrator Dean Kruithof, City Attorney William Duston, City Clerk Lisa Westfall, Communications Director Jerry Adams, Information Technology Director D.J. Cline, Public Works Director and City Engineer David Miller, Parks and Recreation Director Cindy Shook, Fire Chief Carl Sparks, Economic Development Director Garrett Anderson, Planning and Development Director Jim Lawson, Police Chief Carroll McCullough, Finance and Personnel Director Lori Helle and Utilities Director Mike Ray.

PUBLIC COMMENT

Mayor Presley began the Public Comments section of the Board of Aldermen meeting by stating the Board would hear citizens that signed the Speaker's Sheet in the order they are listed on the sheet.

Lisa Clark, 1364 Anchor Hill, asked when it would be appropriate to comment on specific agenda items and wanted to make her comments during the nuisance ordinances.

Gary Groman, 350 Wildwood Drive, Branson, Missouri, inquired if the Board would have signed the initial Pay for Performance Agreement. He asked if the Board intended for the actions they took in modifying the recipient of the payment and restricting what the payment could be used for, to be their approval of any other aspect of the agreement. Mr. Groman asked if the Board has seen anything in writing from the City's Attorney stating the chances in defending a lawsuit by the airport under the agreement would be improved if the City made the modifications it did by appropriating money to Pay for Performance Agreement. He asked if any Board member has seen any evidence establishing how many people the City is being billed by the airport and if the Board felt Mr. Pete accurately explained what the agreement said relative to the City's obligation to appropriate funds. Mr. Groman asked Administrator Kruithof if anytime as City Administrator he had ever seen a provision used in a contract similar to the provision in the Pay for Performance Agreement.

Jim Lekander, 602 Kingsway, Branson, Missouri, requested item number four be moved from the Consent Agenda to the Regular Agenda.

CONSENT AGENDA

Mayor Presley asked if there were any citizens that had any items they wished to have removed from the Consent Agenda for further discussion. Hearing none, Mayor Presley asked if any member of the Board had any items they wished to have removed from the Consent Agenda. Alderman Williams moved to have Bill No. 3849 and Bill No. 3868 taken off of the Consent Agenda and placed as the first two items on the Regular Agenda. Mayor Presley asked City Clerk Westfall to read the items on the Consent Agenda. City Clerk Westfall read the following Consent Agenda items by title.

Approval of the Board of Aldermen Minutes:

- a) November 23, 2010 Special Meeting
- b) November 23, 2010 Regular Meeting

Acknowledge Receipt of Minutes:

- a) Budget and Finance Committee Meeting of October 25, 2010

Acknowledge Receipt of Annexation Petition filed by:

- a) The City of Branson for property located at 412 Owen Lane, Branson, Missouri
- b) TrenCap Partners for property located at 101 Covered Bridge Drive, Branson, Missouri

BILL NO. 3851

Ord. No. 2010-132

Amending the 2010 Budget for the City of Branson, to adjust monies for the Landscape Fund, General Fund, and Branson Landing Debt Service Fund and authorizing the Mayor and Board of Aldermen to amend the adopted 12-Month 2010 Budget.

Final reading of Bill No. 3851, an ordinance amending the 2010 Budget for the City of Branson, to adjust monies for the Landscape Fund, General Fund, and Branson Landing Debt Service Fund and authorizing the Mayor and Board of Aldermen to amend the adopted 12-Month 2010 Budget was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-132 was duly enacted.

BILL NO. 3852

Ord. No. 2010-133

Approving amendments to the City of Branson's personnel manual.

Final reading of Bill No. 3852, an ordinance approving amendments to the City of Branson's personnel manual was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-133 was duly enacted.

BILL NO. 3853

Ord. No. 2010-134

Granting a gas pipeline and communication equipment easement.

Final reading of Bill No. 3853, an ordinance granting a gas pipeline and communication equipment easement was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-134 was duly enacted.

BILL NO. 3854

Ord. No. 2010-135 Accepting the proposal of International Truck and Engine Corporation pertaining to the purchase of a cab and chassis sludge truck.

Final reading of Bill No. 3854, an ordinance accepting the proposal of International Truck and Engine Corporation pertaining to the purchase of a cab and chassis sludge truck and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-135 was duly enacted.

BILL NO. 3855

Ord. No. 2010-136 Accepting the proposal of Crump Truck and Trailer Works, Inc. pertaining to the purchase of a 3200 gallon truck mountable tank.

Final reading of Bill No. 3855, an ordinance accepting the proposal of Crump Truck and Trailer Works, Inc. pertaining to the purchase of a 3200 gallon truck mountable tank and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-136 was duly enacted.

BILL NO. 3856

Ord. No. 2010-137 Authorizing a change order with Brocks Concrete pertaining to the 2010 Sidewalk Project.

Final reading of Bill No. 3856, an ordinance authorizing a change order with Brocks Concrete pertaining to the 2010 Sidewalk Project was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-137 was duly enacted.

BILL NO. 3857

Ord. No. 2010-138 Approving an agreement for Professional Engineering Services between the City of Branson and Black & Veatch Corporation for the Cooper Creek Wastewater Treatment Plant Antidegradation Study.

Final reading of Bill No. 3857, an ordinance approving an agreement for Professional Engineering Services between the City of Branson and Black & Veatch Corporation for the Cooper Creek Wastewater Treatment Plant Antidegradation Study and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-138 was duly enacted.

BILL NO. 3858

Ord. No. 2010-139 Approving the renewal of the contract with Ameripride Services pertaining to rental uniforms, mats and shop towels for the Public Works and Utilities Departments.

Final reading of Bill No. 3858, an ordinance approving the renewal of the contract with Ameripride Services pertaining to rental uniforms, mats and shop towels for the Public Works and Utilities Departments and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-139 was duly enacted.

BILL NO. 3859

Ord. No. 2010-140 Approving the 2011 health insurance premiums from Anthem Blue Cross and Blue Shield for PPO and POS for the City of Branson.

Final reading of Bill No. 3859, an ordinance approving the 2011 health insurance premiums from Anthem Blue Cross and Blue Shield for PPO and POS for the City of Branson and authorizing the Mayor to execute the same was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-140 was duly enacted.

BILL NO. 3860

Ord. No. 2010-141 Approving an agreement with HTE/Sungard to provide for the City's financial software applications for a term of twenty-four months.

Final reading of Bill No. 3860, an ordinance approving an agreement with HTE/Sungard to provide for the City's financial software applications for a term of twenty-four months and authorizing the Mayor to enter into the agreement was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-141 was duly enacted.

BILL NO. 3861

Ord. No. 2010-142 Accepting the proposal of Green Side Up pertaining to golf course maintenance of the Don Gardner Golf Course.

Final reading of Bill No. 3861, an ordinance accepting the proposal of Green Side Up pertaining to golf course maintenance of the Don Gardner Golf Course and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-142 was duly enacted.

BILL NO. 3862

Ord. No. 2010-143 Accepting the proposal of D & T Lawncare pertaining to mowing and weed eating of city parks and facilities.

Final reading of Bill No. 3862, an ordinance accepting the proposal of D & T Lawncare pertaining to mowing and weed eating of city parks and facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-143 was duly enacted.

BILL NO. 3863

Ord. No. 2010-144 Accepting the proposal of Reinhart Food Service pertaining to the purchase of concession supplies used in park facilities.

Final reading of Bill No. 3863, an ordinance accepting the proposal of Reinhart Food Service pertaining to the purchase of concession supplies used in park facilities and authorizing

the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-144 was duly enacted.

BILL NO. 3864

Ord. No. 2010-145 **Accepting the proposal of BWI Companies Inc. of Springfield pertaining to the purchase of agriculture supplies used in park facilities.**

Final reading of Bill No. 3864, an ordinance accepting the proposal of BWI Companies Inc. of Springfield pertaining to the purchase of agriculture supplies used in park facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-145 was duly enacted.

BILL NO. 3865

Ord. No. 2010-146 **Accepting the proposal of Blue Water Pools pertaining to the purchase of pool chemicals used in the Aquaplex.**

Final reading of Bill No. 3865, an ordinance accepting the proposal of Blue Water Pools pertaining to the purchase of pool chemicals used in the Aquaplex and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-146 was duly enacted.

BILL NO. 3866

Ord. No. 2010-147 **Accepting the proposal of PDC Laboratories, Inc. pertaining to wastewater analysis of required wastewater and lake samples for the City's wastewater treatment facilities.**

Final reading of Bill No. 3866, an ordinance accepting the proposal of PDC Laboratories, Inc. pertaining to wastewater analysis of required wastewater and lake samples for the City's wastewater treatment facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-147 was duly enacted.

BILL NO. 3867

Ord. No. 2010-148 **Accepting the proposal of Brenntag Mid South, Inc. for the purchase of Chlorine 1-Ton, D-Chlor, Fluoride 150 lb, Liquid Bleach, and Fluoride Bulk used in the water and wastewater treatment facilities.**

Final reading of Bill No. 3867, an ordinance accepting the proposal of Brenntag Mid South, Inc. for the purchase of Chlorine 1-Ton, D-Chlor, Fluoride 150 lb, Liquid Bleach, and Fluoride Bulk used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-148 was duly enacted.

BILL NO. 3869
Ord. No. 2010-150

Accepting the proposal of General Chemical Performance Products, LLC pertaining to the purchase of Aluminum Sulfate and Water Treatment Coagulant used in the water and wastewater treatment facilities.

Final reading of Bill No. 3869, an ordinance accepting the proposal of General Chemical Performance Products, LLC pertaining to the purchase of Aluminum Sulfate and Water Treatment Coagulant used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-150 was duly enacted.

BILL NO. 3870
Ord. No. 2010-151

Accepting the proposal of Polydyne, Inc. pertaining to the purchase of Emulsified Polymer used in the water and wastewater treatment facilities.

Final reading of Bill No. 3870, an ordinance accepting the proposal of Polydyne, Inc. pertaining to the purchase of Emulsified Polymer used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-151 was duly enacted.

BILL NO. 3871
Ord. No. 2010-152

Accepting the proposal of DPC Enterprises, LP pertaining to the purchase of Chlorine 150 lb cylinders and Sulfur Dioxide 150 lb cylinders used in the water and wastewater treatment facilities.

Final reading of Bill No. 3871, an ordinance accepting the proposal of DPC Enterprises, LP pertaining to the purchase of Chlorine 150 lb cylinders and Sulfur Dioxide 150 lb cylinders used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-152 was duly enacted.

BILL NO. 3872
Ord. No. 2010-153

Accepting the proposal of D & T Lawncare pertaining to mowing and weed eating of the wastewater and water treatment plants and various well sites and lift stations.

Final reading of Bill No. 3872, an ordinance accepting the proposal of D & T Lawncare pertaining to mowing and weed eating of the wastewater and water treatment plants and various well sites and lift stations and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-153 was duly enacted.

BILL NO. 3873
Ord. No. 2010-154

Accepting the proposal of Boerman's Septic, LLC pertaining to the disposal of holding tank and special wastes into the wastewater treatment plants.

Final reading of Bill No. 3873, an ordinance accepting the proposal of Boerman's Septic, LLC pertaining to the disposal of holding tank and special wastes into the wastewater treatment plants and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-154 was duly enacted.

BILL NO. 3874

Ord. No. 2010-155 Accepting the proposal of S & S Pumping Service pertaining to the disposal of holding tank and special wastes into the wastewater treatment plants.

Final reading of Bill No. 3874, an ordinance accepting the proposal of S & S Pumping Service pertaining to the disposal of holding tank and special wastes into the wastewater treatment plants and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-155 was duly enacted.

BILL NO. 3875

Ord. No. 2010-156 Accepting the proposal of Tri-Lakes Petroleum Company pertaining to motor vehicle fuel.

Final reading of Bill No. 3875, an ordinance accepting the proposal of Tri-Lakes Petroleum Company pertaining to motor vehicle fuel and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Ordinance No. 2010-156 was duly enacted.

Mayor Presley opened the floor for a motion to approve all items on the Consent Agenda. Alderman Simmons moved to approve, seconded by Alderman Williams. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

REGULAR AGENDA

BILL NO. 3849 Adopting a budget for the City of Branson, Missouri, for the fiscal year January 1, 2011 through December 31, 2011.

Final reading of Bill No. 3849, an ordinance adopting a budget for the City of Branson, Missouri, for the fiscal year January 1, 2011 through December 31, 2011 was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof. Mayor Presley asked for a motion approving the final reading of Bill No. 3849. Alderman Davis so moved, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Jeff Bourke, Hollister, Missouri, stated he felt appropriating money to the Pay for Performance Agreement is a great step forward, but feels this amount is a small percentage of the total due under the contract through 2011. Mr. Bourke asked the Board to amend the 2011 budget to include payments due to the Branson Airport. Mayor Presley asked for comments from the Board regarding the amendment. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3868
(Postponed)

Accepting the proposal of F2 Industries, LLC for the purchase of Potassium Permanganate and Granular Chlorine used in the water and wastewater treatment facilities.

Final reading of Bill No. 3868, an ordinance accepting the proposal of F2 Industries, LLC for the purchase of Potassium Permanganate and Granular Chlorine used in the water and wastewater treatment facilities and authorizing the Mayor to execute the contract was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof and Mike Ray. Mayor Presley asked for a motion approving the first reading of Bill No. 3868. Alderman Bohinc moved to approve, seconded by Alderman Simmons. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Alderman Williams moved to postpone Bill No. 3868 to the January 11, 2011 Regular Board of Aldermen meeting, seconded by Alderman Davis. Mayor Presley asked for a vote on the postponement of Bill No. 3868. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3876

Amending the adopted 12 month 2010 Budget for the City of Branson, to adjust monies for the General Fund and Demolition Services.

First reading of Bill No. 3876, an ordinance amending the adopted 12 month 2010 Budget for the City of Branson, to adjust monies for the General Fund and Demolition Services and authorizing the Mayor to execute the same was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof. Mayor Presley asked for a motion approving the first reading of Bill No. 3876. Alderman Bohinc so moved, seconded by Alderman Booth. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Jim Lekander, 602 Kingsway, Branson, Missouri, asked the Board to table this item until further discussion can be made as he feels that if a private entity such as the Branson Airport would like to increase profits they should increase the cost of goods and cut costs. He feels the Branson Airport should not receive money from the City. Mr. Lekander questioned the airport's ability to account for visitors and residents utilizing the airport. Mark Weisz, 386 Dalton Drive, Branson, Missouri, stated the figure of \$8.24 was a negotiated figure based upon an expectation of how many people would be coming to Branson and the anticipated tax dollars. He stated the Branson Airport would not be paid for local passengers utilizing the airport. Mr. Weisz expressed his support for the Pay for Performance Agreement. Darin Codon, 500 W. Main Street, Suite 302, Branson, Missouri, asked the Board to honor the Pay for Performance Agreement through 2011. Mayor Presley asked for comments from the Board. Discussion. Voting aye: Booth, Simmons, Bohinc and Todd. Nays: Davis and Williams. Motion carried.

BILL NO. 3877

Amending the adopted 2011 Budget for the City of Branson, to adjust monies for the General Fund.

First reading of Bill No. 3877, an ordinance amending the adopted 2011 Budget for the City of Branson, to adjust monies for the General Fund and authorizing the Mayor to execute the same was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof. Mayor Presley asked for a motion approving the first reading of Bill No. 3877. Alderman Booth so moved, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Jim Lekander, 602 Kingsway, Branson, Missouri, asked the Board to table this amendment until further study has been made as a precedence will be set. Mayor Presley asked for comments from the Board. Discussion. Voting aye: Booth, Simmons, Bohinc and Todd. Nays: Davis and Williams. Motion carried.

BILL NO. 3878

Amending Chapter 86 of the Branson Municipal Code pertaining to emergency and experimental regulations.

First reading of Bill No. 3878, an ordinance amending Chapter 86 of the Branson Municipal Code pertaining to emergency and experimental regulations was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof and David Miller. Mayor Presley asked for a motion approving the first reading of Bill No. 3878. Alderman Bohinc moved to approve, seconded by Alderman Davis. Alderman Williams moved to add the sentence back and change to a period of one year, seconded by Alderman Simmons [No such temporary or experimental regulation shall remain in effect for more than one year.] Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Mayor Presley asked for a vote on the bill as amended. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3879

Authorizing the Mayor to execute an amendment to the Professional Engineering Services Agreement with Delich, Roth, and Goodwillie, P.A. pertaining to the design of the Route 248 at US 65 Diverging Diamond Interchange Project.

First reading of Bill No. 3879, an ordinance authorizing the Mayor to execute an amendment to the Professional Engineering Services Agreement with Delich, Roth, and Goodwillie, P.A. pertaining to the design of the Route 248 at US 65 Diverging Diamond Interchange Project and authorizing the Mayor to enter into the agreement was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof and David Miller. Mayor Presley asked for a motion approving the first reading of Bill No. 3879. Alderman Bohinc moved to approve, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

Meeting recessed at 8:10 p.m. and reconvened at 8:18 p.m.

BILL NO. 3880

Amending Chapter 22 of the Branson Municipal Code pertaining to dangerous buildings.

First reading of Bill No. 3880, an ordinance amending Chapter 22 of the Branson Municipal Code pertaining to dangerous buildings was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof, Jim Lawson and William Duston. Lisa Clark, Attorney for the Tri-Lakes Board of Realtors, complimented the Board for working with Keith, Jim and William on this process to protect the rights of citizens. Ms. Clark stated a concern among citizens relating to Section 58-293, which states the definition of an inoperable vehicle includes unlicensed vehicles. She commented this could pose a problem to citizens who might own an extra vehicle that is not being driven, but is not inoperable or abandoned. Ms. Clark commented Section 58-294, subsection 5A, concerning trailers could be a problem to businesses who use trailers in the operation of their business. Ms. Clark stated she feels there are legitimate uses of trailers that should be allowed and stated the verbage of the code pertaining to trailers and portable storage units should be further examined in order to protect citizens and businesses with legitimate uses of these items. Nancy Hilburn, 409 Walnut Lane, Branson, Missouri, stated there should be a reasonable time limit and a renewal option put in place in regard to portable storage units. Mayor Presley asked for a motion approving the first reading of Bill No. 3880. Alderman Bohinc moved to approve, seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Bob Huels, 500 W. Main Street, Branson, Missouri, expressed his concern with commercial properties which have storage trailers that store inventory, packing materials or other items pertinent to daily business operations. Mr. Huels stated he took photos of examples of businesses who utilize trailers for the Board to review. Mr. Huels expressed his concern regarding unlicensed vehicles in the code and commented the State of Missouri does not require a vehicle to be licensed which is not being driven and he asked if the City should issue the

license since it's not required by the state. Mr. Huels expressed his concern regarding clarifying the verbage surrounding parking vehicles. Mark Weisz, 386 Dalton Drive, Branson, Missouri, asked the Board and staff if there is a current example of a dangerous building they could point out and what the anticipated solution would be. Mr. Weisz inquired where the definition of boarding could be found in the code and asked how much the cost of an appeal would be. Mr. Weisz questioned the clause on insurance and how the City would know the amount of an individual's insurance policy. Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3881 Amending Chapter 58 of the Branson Municipal Code pertaining to nuisances.

First reading of Bill No. 3881, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to nuisances was read by title by City Clerk Westfall and a staff report was presented by Jim Lawson. Mayor Presley asked for a motion approving the first reading of Bill No. 3881. Alderman Todd so moved, seconded by Alderman Booth. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. [See discussion under Bill No. 3880]

BILL NO. 3882 Amending Chapter 58 of the Branson Municipal Code pertaining to graffiti.

First reading of Bill No. 3882, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to graffiti was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof. Mayor Presley asked for a motion approving the first reading of Bill No. 3882. Alderman Bohinc so moved, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3883 Amending Chapter 34 of the Branson Municipal Code pertaining to administrative search warrants.

First reading of Bill No. 3883, an ordinance amending Chapter 34 of the Branson Municipal Code pertaining to administrative search warrants was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof. Mayor Presley asked for a motion approving the first reading of Bill No. 3883 Alderman Williams so moved, seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3884 Amending Chapter 58 of the Branson Municipal Code pertaining to offenses against property.

First reading of Bill No. 3884, an ordinance amending Chapter 58 of the Branson Municipal Code pertaining to offenses against property was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof. Mayor Presley asked for a motion approving the first reading of Bill No. 3884. Alderman Bohinc so moved, seconded by Alderman Todd. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3885**Amending Chapter 10 of the Branson Municipal Code pertaining to public nuisances.**

First reading of Bill No. 3885, an ordinance amending Chapter 10 of the Branson Municipal Code pertaining to public nuisances was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving the first reading of Bill No. 3885. Alderman William so moved, seconded by Alderman Bohinc. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3886**Amending Chapter 26 of the Branson Municipal Code pertaining to inspections.**

First reading of Bill No. 3886, an ordinance amending Chapter 26 of the Branson Municipal Code pertaining to inspections was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving the first reading of Bill No. 3886. Alderman Davis so moved, seconded by Alderman Williams. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3887**Amending Chapter 22 of the Branson Municipal Code pertaining to International Property Maintenance Code.**

First reading of Bill No. 3887, an ordinance amending Chapter 22 of the Branson Municipal Code pertaining to International Property Maintenance Code was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving the first reading of Bill No. 3887. Alderman Simmons so moved, seconded by Alderman Williams. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3888**Amending Chapter 38 of the Branson Municipal Code pertaining to International Fire Code.**

First reading of Bill No. 3888, an ordinance amending Chapter 38 of the Branson Municipal Code pertaining to International Fire Code was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving the first reading of Bill No. 3888. Alderman Todd so moved, seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3889**Amending Chapter 46 of the Branson Municipal Code pertaining to public health and sanitation.**

First reading of Bill No. 3889, an ordinance amending Chapter 46 of the Branson Municipal Code pertaining to public health and sanitation was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving the first reading of Bill No. 3889. Alderman Simmons so moved, seconded by Alderman Booth. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

BILL NO. 3890**Amending Chapter 86 of the Branson Municipal Code pertaining to vehicles.**

First reading of Bill No. 3890, an ordinance amending Chapter 86 of the Branson Municipal Code pertaining to vehicles was read by title by City Clerk Westfall. Mayor Presley asked for a motion approving the first reading of Bill No. 3890. Alderman Booth so moved, seconded by Alderman Williams. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. No discussion. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

RESOLUTION NO.**2010-R022****Adopting park user fees for the Parks and Recreation Department.**

A Resolution authorizing adopting park user fees for the Parks and Recreation Department was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof and Cindy Shook. Mayor Presley asked for a motion adopting the resolution. Alderman Simmons moved to adopt, seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Mayor Presley called for the vote on the Resolution. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Resolution No. 2010-R022 was adopted.

Alderman Todd left the meeting at 10:14 p.m. and returned at 10:16 p.m

Alderman Booth left the meeting at 10:17 p.m. and returned at 10:19 p.m

RESOLUTION NO.**2010-R025****Approving the marketing budget of the Branson/Lakes Area Chamber of Commerce and Convention & Visitors Bureau from January 1, 2011 to December 31, 2011.**

A Resolution approving the marketing budget of the Branson/Lakes Area Chamber of Commerce and Convention & Visitors Bureau from January 1, 2011 to December 31, 2011 was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof. Mayor Presley asked for a motion adopting the resolution. Alderman Simmons moved to adopt, seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board. Discussion. Mayor Presley called for the vote on the Resolution. Voting aye: Davis, Booth, Williams, Simmons and Todd. Nays: none. Abstain: Bohinc. Resolution No. 2010-R025 was adopted.

Alderman Williams left the meeting at 10:33 p.m. and returned at 10:36 p.m.

RESOLUTION NO.**2010-R024****Approving the annual Operating Budget and Capital Renewals Budget of the Convention Center and the annual Operating Budget of the Parking Garage from January 1, 2011 to December 31, 2011.**

A Resolution approving the marketing budget of the Branson/Lakes Area Chamber of Commerce and Convention & Visitors Bureau from January 1, 2011 to December 31, 2011 was read by title by City Clerk Westfall and a staff report was presented by City Administrator Dean Kruithof. Mayor Presley asked for a motion adopting the resolution. Alderman Bohinc moved to adopt, seconded by Alderman Davis. Mayor Presley asked for anyone in the audience wishing to speak regarding this matter. Hearing none, Mayor Presley asked for comments from the Board.

Discussion. Mayor Presley called for the vote on the Resolution. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Resolution No. 2010-R024 was adopted.

APPOINTMENTS

Mayor Presley requested the following appointments be made:

Dave Friggle - Re-appointment to the Industrial Development Authority (IDA) with a term expiring December 2016.

Mayor Presley asked for a motion approving the appointment. Alderman Simmons moved to approve, seconded by Alderman Williams. Mayor Presley asked for comments. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

DISBURSEMENTS

Mayor Presley stated the next item was review of disbursements for October 29, 2010, through November 18, 2010, and asked if there were any questions regarding the disbursements. [See Master File for copies of disbursements.] Mayor Presley asked for a motion acknowledging the receipt of disbursements from October 29, through November 18, 2010. Alderman Todd so moved, seconded by Alderman Simmons. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried.

MAYOR/ALDERMEN/ADMINISTRATOR'S REPORTS

Alderman Williams stated she had the privilege of going to the National League of Cities in Denver where she attended seminars and gathered some new ideas. Alderman Williams wished everyone a Merry Christmas.

Alderman Simmons commented he visited the Denver city dump with Alderman Davis and Alderman Williams while they were at the National League of Cities. He stated it was an impressive operation and commented he is proud of the operation the City of Branson has and feels the City is on the right track.

Alderman Bohinc wished Rick and Michael a happy birthday.

Alderman Todd stated he feels the process used for the nuisance and dangerous building code is great and it will yield better decisions.

Alderman Davis stated he is looking forward to further discussion regarding their experience at the National League of Cities and thanked the Mayor for arranging the opportunity to attend.

Administrator Kruithof thanked Jim Lawson, William Duston and Lisa Westfall for their efforts in regard to the dangerous building and nuisance code. Mr. Kruithof read into the record a statement explaining the purchase of the Owen's Enclave: "In early September of this year, the City of Branson purchased 7.4 acres of land in the center of the Lakeside Forest Preserve known as the Owen's Enclave. This is the last parcel on a 137.45 acre tract appraised by the City in 1998. The Owen's Enclave was purchased for \$210,000 plus closing costs and routine legal fees. Funds for this purchase came from the City's Tree fund, which is a restricted account and can only be used for maintaining trees on public land or the acquisition of property for green space. While no

Board of Aldermen

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appraisal took place for the recent purchase, the value of the original 130 acres was appraised at \$2.4 million in 1998. The Owen's Enclave had not been annexed by the City was served by a 12-foot road easement and potentially could have been developed in a manner which would have been detrimental to the City's prior investment at Lakeside Forrest and the possible development of a nature center at Highway 76 and Fall Creek Road. Acquiring the property at this time will protect the forrest canopy, provide public access to spectacular bluff views and allow the preservation and potential restoration of the Owen's Homestead and gardens for public, educational and historical opportunities. Restoration activities have also taken place thanks to our local boy scouts and with additional assistance provided by Southern Missouri Natural Gas.

Mayor Presley was appreciative of the City's employee Christmas party and thanked all of the Board members and directors who participated in the bell ringing Saturday for the Salvation Army.

ADJOURN

Mayor Presley asked for a motion to adjourn. Alderman Williams moved to adjourn, seconded by Alderman Bohinc. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Meeting adjourned at 11:05 p.m.

Raeanne Presley
Mayor

Lisa K Westfall
City Clerk

MINUTES

SPECIAL MEETING OF THE
BOARD OF ALDERMEN
CITY OF BRANSON, MISSOURI
December 16, 2010

INTRODUCTORY

The Board of Aldermen of the City of Branson, Missouri met for a special meeting in the Council Chambers of the City Hall on December 16, 2010, at 5:30 p.m. Mayor Presley called the meeting to order.

ROLL CALL

City Clerk Westfall called roll: Mayor Presley presiding, Rick Davis, Mike Booth, Sandra Williams, Bob Simmons, Cris Bohinc and Rick Todd present.

Also present from the City were: City Administrator Dean Kruithof, City Attorney William Duston, City Clerk Lisa Westfall, Communications Director Jerry Adams, Economic Development Director Garrett Anderson, Planning and Development Director Jim Lawson, Captain Steve Lisby and Finance and Personnel Director Lori Helle.

CONSENT AGENDA

Mayor Presley asked City Clerk Westfall to read the items on the Consent Agenda. City Clerk Westfall read the following Consent Agenda items by title.

BILL NO. 3876

Ord. No. 2010-157 Amending the adopted 12-Month 2010 Budget for the City of Branson, to adjust monies for the General Fund and Demolition Services.

Final reading of Bill No. 3876, an ordinance amending the adopted 12-Month 2010 Budget for the City of Branson to adjust monies for the General Fund and Demolition Services and authorizing the Mayor to execute the same was read by title by City Clerk Westfall. Voting aye: Booth, Simmons, Bohinc and Todd. Nays: Davis and Williams. Motion carried. Ordinance No. 2010-157 was duly enacted.

Mayor Presley opened the floor for a motion to approve all items on the Consent Agenda. Alderman Booth moved to approve, seconded by Alderman Todd. Voting aye: Booth, Simmons, Bohinc and Todd. Nays: Davis and Williams. Motion carried.

ADJOURN

Mayor Presley asked for a motion to adjourn. Alderman Booth moved to adjourn, seconded by Alderman Davis. Voting aye: Davis, Booth, Williams, Simmons, Bohinc and Todd. Nays: none. Motion carried. Meeting adjourned at 5:34 p.m.

Raeanne Presley
Mayor

Lisa K Westfall
City Clerk

PLANNING AND ZONING COMMISSION

October 5, 2010

STUDY SESSION

7:00 p.m.

Fishbowl Conference Room

CONSENT

Roll Call

Commissioners Present:	Best, Davis, Hartley, Huddleston, Loyd, Wescott, Vice-Chairperson Romine and Chairperson Harris
Commissioners Absent:	McDowell and Woolery
Staff Present:	Jim Lawson Director of Planning and Development Joel Hornickel Senior Planner Kendall Powell Utilities Plans Reviewer William Duston Assistant City Attorney Sonja Paden Office Assistant II

ADMINISTRATIVE DISCUSSION

Mr. Hornickel began by stating there would be no representative from the Engineering Department at the meeting.

PUBLIC HEARINGS

4. Request For A Special Use Permit For A Vehicle Storage Area At 554 Gretna Road, Branson, Missouri.

Project No. 10-1.24 (10-00100024)

Applicant: Rich McDowell

- Mr. Hornickel said David Miller, City Engineer, had emailed him his comments concerning the item, a copy of which was handed out to each commissioner in attendance.
- He said staff recommended denial of the request due to that fact that the request was not consistent with the requirements of the Centre Point Square Planned Development and that it would be a gravel parking lot.
- He reminded the commissioners about the conditions of approval agreed to by the applicant prior to the issuance of their Special Use Permit (09-1.20) on December 1, 2010.
- Mr. Lawson said the original intent of this property was to put in a discount shopping center that would mirror the Red Roof Mall.
- Bill Yung drafted the Land Use Regulations for this planned development.
- Chairperson Harris asked about the landscaping, and Mr. Hornickel said there were no specific landscaping plans included in the Planned Development.
- Mr. Lawson said that Exhibit "J" was missing for the Planned Development.

- Commissioner Davis asked if there was a POA at this location.
- Commissioner Loyd stated the covenants did not allow what the applicant desired to do.
- Mr. Lawson mentioned Mark Ruda would be at the meeting tonight, as he and his father, Dan Ruda, are adjacent landowners.

OTHER BUSINESS

Mr. Lawson discussed the upcoming fee changes. The fees in process of being revamped are those in the Planning and Development Department, the Fire Department and the Health Department. He said he had been asked to determine what half of the city's costs would amount to for each application.

Mr. Lawson reminded everyone about the Comprehensive Plan Open House happening on Thursday, October 7th at the Branson High School. Two identical sessions would be held from 3:30 pm to 5:30 pm and from 6:30 pm to 8:30 pm.


Mr. Lawson stated he, William Duston, City Attorney, and Lisa Westfall, City Clerk, had met and discussed the nuisance and dangerous buildings and progress was being made.

Mr. Lawson stated that a concern was raised at the Open House that Branson's workforce was not being included in the Comprehensive Planning process. As a result, a workforce survey was drafted and sent out. He said that they had received almost 900 responses.

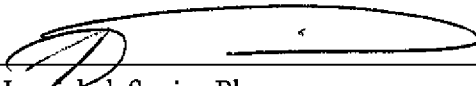
Commissioner Best asked if there was a Spanish version of the workforce survey available. Mr. Hornickel said no because one had not been requested. Commissioner Davis asked if there was a Spanish interpreter on staff with the City. Mr. Duston said Sgt. Ron Ginn was able to provide this service if needed.

ADJOURNMENT

Motion by Commissioner Best and seconded by Commissioner Wescott, and unanimously carried to adjourn the meeting at 7:20 p.m.


Clark Harris, Chairperson

1-4-10
Date


Joel Hornickel, Senior Planner

1/5/14
Date

PLANNING AND ZONING COMMISSION

October 5, 2010
7:30 pm
Council Chambers

SPECIAL ANNOUNCEMENTS

PUBLIC COMMENTS

CONSENT

1. Roll Call.

Commissioners Present:	Best, Davis, Hartley, Huddleston, Loyd, Wescott, Vice-Chairperson Romine and Chairperson Harris.
Commissioners Absent:	McDowell and Woolery.
Staff Present:	Jim Lawson Director of Planning and Development Joel Hornickel Senior Planner Kendall Powell Utilities Plans Reviewer William Duston Assistant City Attorney Sonja Paden Office Assistant II

2. Approve Agenda.

Recommended Action: Approve the format of the October 5, 2010 agenda.

MOTION:

Motion by Commissioner Hartley and seconded by Vice-Chairperson Romine, and unanimously carried to approve the format of the October 5, 2010.

3. Approve Minutes.

Recommended Action:

- A) Approve the minutes of the September 7, 2010 study session;
- B) Approve the minutes of the September 7, 2010 regular meeting.

MOTION:

Motion by Vice-Chairperson Romine and seconded by Commissioner Best and unanimously carried to approve the minutes of the September 7, 2010 Planning and Zoning Commission study session as presented and the September 7, 2010 Planning and Zoning Commission regular meeting, as modified per Commissioner Wescott with the correction of his vote status on 10-11.2, item no. 7, from approve to abstain.

OLD BUSINESS

None.

PUBLIC HEARINGS

4. Request For A Special Use Permit For A Vehicle Storage Area At 554 Gretna Road,
Branson, Missouri.
Project No. 10-1.24 (10-00100024)
Applicant: Rich McDowell

Mr. Hornickel presented the staff report as filed with the Planning Division.

Mr. Lawson stated that at the time when staff recommended approval for Branson Collision, it had been based on vehicles being stored inside. He added that if they would have requested the outside storage of vehicles, he would not have recommended it.

Chairperson Harris asked what actual rule of law is applicable to a PD when it is approved with a land use map.

Mr. Hornickel stated that the typical PD includes a statement that says if a certain percentage of a PD is changed from what was approved, then it must go before the Planning and Zoning Commission.

Mr. Lawson stated that if someone comes in for a building permit and wants to build a commercial building on an area zoned for multifamily, we would say no.

Chairperson Harris asked if there were any questions regarding the item by the Commissioners.

Commissioner Best asked if staff had received any input from any of the neighbors regarding the item.

Mr. Hornickel stated that Dan Ruda, Thousand Hills, had contacted staff. Mr. Lawson stated that he had also talked with him and that his son, Mark, was present.

Vice-Chairperson Romine asked if a parking garage facility or storage was listed as an approved use upon conception of the PD.

Mr. Hornickel stated that the PD did state that a parking facility was allowed within the area in discussion, but staff's interpretation was that it referred to a parking lot or parking deck.

Chairperson Harris asked if the area was considered a parking lot then it would have to follow the city's requirements for such.

Mr. Hornickel stated that was correct.

Mr. Lawson stated that an email had been passed out from David Miller, the city engineer, expressing concerns for the area becoming a gravel lot.

Commissioner Loyd asked if the Red Roof Mall was at an elevation that they would be able to see down inside this enclosure.

Mr. Hornickel stated that they were higher, but from their vantage point, it would be blocked by the Branson Collision building so they would not be able to see in very much.

Commissioner Loyd asked that if the area were going through as a parking lot, how would the city manage any long-term parking.

Mr. Hornickel stated that it was included as one of the conditions of the Special Use Permit for Branson Collision to not have any vehicles stored outside. He added that there are code enforcement officers that would keep on the lookout for any violations of that.

Mr. Lawson stated that the applicant had not made any such statement for this request, so any vehicle could be stored within the area indefinitely.

Chairperson Harris asked if the applicant, or their representative, was present and wished to speak in regards to the item.

Mr. Jesse Lee approached and stated that the area was intended for processing vehicles and not storage. He stated that they had been pulling cars outside, but Mr. Ruda expressed concern. He stated that he thought this would be a good way to hide the cars. He added that when they prime cars, they need to be out in the air for a few hours to dry before they paint them, and then put back outside for a few more hours before they are put back together. He stated that it would be simply an in-process area to keep Mr. Ruda and the city happy. He stated that the way the building was set up, it had one door in and one door out so they were limited to the center of the building for an area to back cars up. He stated that they just want to be able to provide fast service and the visual appearance to not look like an average body shop.

Commissioner Best asked if there were any images of the two doors.

Mr. Hornickel stated that he could not access any.

Mr. Lee stated that the two doors were actually loading docks on the rear and there was a single door on the west side that they go in and out of.

Chairperson Harris asked Mr. Lee to show the location of the proposed fence on the slide.

Mr. Lee stated that it would not be visible from Red Roof Mall. He added that it would only be visible by the visitors to Anytime Fitness, the car wash or Branson Collision. He stated that his neighbor was pleased and since they had opened, his business had increased by ten percent just from people coming by.

Chairperson Harris stated that he had gone out to the property the previous Friday and the parking lot was full. He asked if some of the vehicles being worked on were within the parking lot at that time.

Mr. Lee stated that on any given day there may be three to four cars parked out front waiting on mechanical parts and this request would help out a lot with containing those vehicles.

Commissioner Davis asked if they had any plans to change the surface to a more acceptable one.

Mr. Lee stated that there was cost to be considered, but if that was what it would take to do it, then they would do it. He added that they paved the front lot and it cost them thirty thousand dollars and he didn't think it would be any more to pave the proposed area.

Commissioner Hartley stated that the gravel lot could not be marked or striped so she asked how they would be able to efficiently handle the parking.

Mr. Lee stated that since it would be a fenced in area and they would be the only ones able to access it, parking would not be an issue.

Commissioner Hartley stated that she saw a concern with the city monitoring all of this and then asked Mr. Lawson for his opinion.

Mr. Lawson stated that was correct and he was completely opposed to the storage of cars in the location. He stated that it would really damage the PD if there was outside storage and a gravel lot. He stated that it would be so far from the original PD that it would be the downhill signal for the rest of the area.

Mr. Lee stated that if he could keep all of the cars inside at night he won't spend the money or lease the land to do this. He added that Mr. Ruda had expressed concern about the camper parked outside. He stated that he would make a point to only take one camper at a time so he could keep it inside. He added that he currently has five, including two inside, two outside and one at the campground still. He stated that he wants to treat the visitors of Branson with quality service and he tries to say yes to everybody.

Chairperson Harris asked if the current Special Use Permit would allow them to keep vehicles outside during the day.

Mr. Hornickel stated that the way it was worded, it would allow for the vehicles to be outside during business hours and that was why it was requested that the parking lot be enlarged. He added that it also stated that the vehicles must be brought inside after business hours.

Chairperson Harris asked if there was anyone else present who wished to speak in regards to the item.

Mr. Mark Ruda approached and stated that he and Dan Ruda are the declarers of the development as well as property owners in the area. He stated that specifically they were the owners of the multi-family area shown in the development and economic conditions willing, they would still develop the area based on that concept. He stated that he felt the best solution would be that they, Branson Collision and Anytime Fitness come together to work a solution out together and then present it to the Commission. He stated that he understood the current economic situation and that landowners need to make money on their property, but he was concerned about the value of the property they own and the value of others property. He added that another concern for the body shop would be how wrecked vehicles would be handled if dropped off after hours. He stated that he would like to come up with a solution for everyone who was within the development.

Chairperson Harris asked if there was anyone else present who wished to speak in regards to the item; there was no response. He asked if any of the commissioners had any other questions.

Commissioner Wescott asked if there was any possibility of in-process vehicles to be placed in the proposed area at this point.

Mr. Lee stated that since Mr. Ruda came by about a month and a half ago, they have kept the vehicles near the entrance and along the backside of the building. He added that in response to Mr. Ruda's concern, any wrecked vehicle would be taken to the tow truck's storage yard if it was after hours.

Chairperson Harris asked if it was not common practice to have vehicles dropped off in front of their building by tow trucks after hours.

Mr. Lee stated that it was not, however, it was common practice to drop off cars that had broken down.

Commissioner Wescott asked how many cars were in-process on an average day.

Mr. Lee stated that the mechanical side has about eight cars and the body shop has about sixteen cars. He added that since they left 248 Auto, his business had doubled.

Commissioner Wescott stated that to him, it seemed like the request would clean the area up if there were a fenced in area to hold the cars within. He stated that a fence would not look any worse than the area currently does.

Mr. Lee stated that the area would only be for in-process vehicles and not overnight storage.

Commissioner Best asked if his request was denied, would he be comfortable to meet with the Rudas to determine an alternative strategy that would be conducive to all parties.

Mr. Lee stated that he would be more than willing to do so in order to stay in business.

Commissioner Davis stated that he thought the offer from Mr. Ruda was the best pathway towards a resolution and the motion before them should be denied until a group plan was presented. He added that the Planning staff should be included in the group. He stated that the Special Use Permit was a stretch at this location and within a Planned Development, but he appreciated his willing to work with his neighbors. He also stated that the expectations of staff and the commission were that the cars were to be parked in the correct areas and if they were being parked on unpaved areas, then that did not meet the expectations. He encouraged staff to review the parking requirements of the request and to comment.

Mr. Hornickel stated that the RVs discussed earlier parked on the gravel were not allowed per the approved Special Use Permit.

Mr. Lee stated that all of the vehicles are on the paving. He stated that some of the guys had been parking on the gravel and he told them it was Mr. Ruda's property and they couldn't do that so they haven't since.

Mr. Hornickel stated that a secondary reason that the expanded paving was required was to create a thru fire lane. He added that if vehicles are being parking within that area, they needed to be mindful of other vehicles that needed to come through. He stated that the landscaping that was also required needed to survive.

Mr. Lee stated that he agreed and that the heat wave during the summer did not help.

Chairperson Harris asked if there was anyone else present who wished to speak in regards to the item; there was no response. He asked if there were any further questions by the Commissioners; there was no response. He entertained a motion.

MOTION:

Motion by Commissioner Best and seconded by Commissioner Wescott to approve Resolution 10-1.24.

AYES: None.

NOES: Commissioners Best, Davis, Hartley, Huddleston, Loyd, Wescott,
Vice-Chairperson Romine and Chairperson Harris.

ABSTAIN: None.

ABSENT: McDowell and Woolery.

Motion to approve Resolution 10-1.24 was denied with an 8-0 vote.

OTHER BUSINESS

Mr. Lawson stated that nothing had been filed so there would be no meeting in November.

Commissioner Davis stated that the Mayor was concerned regarding a potential vote to do away with Planning and Zoning at the county level. He requested that those on the commission look for such meetings to attend and try to attend and speak to the detriment of the need for planning and zoning.

Commissioner Loyd stated that he had read in the paper that a petition had been going around.

Commissioner Davis stated that was what he had heard and they were trying to get it back on the ballot for the fourth time. He stated that if it did get on the ballot then there would be an issue and they would need to get out and talk with neighbors and residents about its importance.

Mr. Mark Weisz approached and stated that the county had scheduled meetings for Thursday, November 14th at 2:00 pm at the Taney County Courthouse and on Monday, November 25th at 7:00 pm at the Kirbyville School. He also stated that he totally agreed about the importance of planning and zoning in the county.

Chairperson Harris stated that staff could draft a general letter to send to that body with all of the commissioner's signatures to outline the positive aspects of good planning and what occurs with that process. He asked for a consensus from the commission.

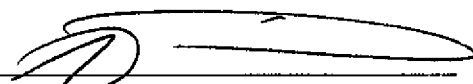
Commissioner Davis stated that he thought there was a consensus on the topic.

ADJOURNMENT

Motion by Commissioner Best and seconded by Commissioner Davis, and unanimously carried to adjourn the meeting at 8:16 pm.


Clark Harris, Chairperson

1-4-10
Date


Joel Hornickel, Senior Planner

1/5/10
Date

TREE BOARD MEETING

October 13, 2010

1:00 p.m.

Planning & Development Conference Room

Roll Call

Members Present:

Chairman Olson

Vice-Chair Stone

Board Member Wolfe

Staff Present:

Tara Norback

Planning Assistant

Joel Hornickel

Senior Planner

Roger Hunzeker

Parks & Recreation

DISCUSSION

Meeting Started at 1:00 p.m.

Discussed the upcoming ArborFest on Friday October 15. The tree planting handout was distributed. It discussed how to plant a new tree and what to look for when buying a tree.

Board member Wolfe suggested that we follow up with the participating nurseries to get feedback after the event.

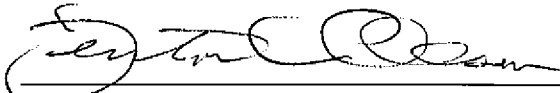
Tara spoke with Garrett Anderson, Economic Development Director, and said he would coordinate the Eagle Scouts to help plant.

The future projects that were discussed, were that of Lakeside Forest. Joel explained ideas that have been discussed by the Lakeside Forest Committee including trails and priorities. Wolfe suggested that we contact College of the Ozarks to see if they had a landscaping class that could design something for the perimeter of Lakeside.

Other future projects mentioned were, the city's golf course, Fall Creek Road extension, RV park, Parnell Park, Facilities Maintenance trail, and the dog park. Additionally, a small project had been introduced. Tara had been approached by Matt Filice from Engineering regarding the need for a 4-5 trees next to a portion of the Cahill Trail. The Board agreed that the existing funds in the tree account could be used for the small project.

Items to be put on the agenda for next month's meetings were, the meeting schedule for 2011, memorial trees and how to recognize them and the Tree Board's Goals.

The meeting was adjourned at 1:58 pm. Motioned by Julie Wolfe and seconded by Walt Stone.


Kenton Olson, Chairperson

11/10/10
Date


Tara Norback, Planning Assistant

11/10/10
Date

TREE BOARD MEETING

November 10, 2010

1:00 p.m.

Planning & Development Conference Room

Roll Call

Members Present:

Chairman Olson
Board Member Harris
Board Member Kinel
Board Member Wolfe

Staff Present:

Tara Norback	Planning Assistant
Joel Hornickel	Senior Planner
Roger Hunzeker	Parks & Recreation
Keith Francis	Public Works

DISCUSSION

Meeting Started at 1:10 p.m.

The Board discussed setting future meetings. It was decided that meetings would be held every other month on the first Wednesday at 12:30pm starting January 5, 2011. At this time, whether to hold a December meeting was not decided and we would revisit this at the end of the meeting.

Ben Kinel entered at 1:20pm

The next item on the agenda was the Memorial Tree Program. Tara Norback passed out examples from other cities including ideas for plaques. The Board decided that one central location for the plaque would be preferable. Prior to the Police department's construction, some Tree City awards had been hanging on a wall near their entrance. Tara would ask Chief McCullough if it would be acceptable to reserve this location for such awards and recognitions.

Another idea would be dedicate benches as part of the memorial program. This idea was postponed as Julie Wolfe stated the Park Board was looking into this as well. Julie will approach the board with the idea and both boards may work together for this program.

Ben Kinel mentioned that the local paper might accept community news of those individuals that have decided to memorialize their loved one and to recognize both. Of the examples provided, the Columbia Parks & Recreation Department brochure was decided to be used as the example. Memorial trees would be planted twice a year, once in the Spring, and once in the Fall. Accounts for donations would be created for the memorial program and one for general donations. The donation fee will be two tiered, \$150 and \$250. The fees will include a tree that had been selected from a list, the recipient's name on a plaque and maintenance. Each person that donates toward the memorial tree program will receive a letter and a map showing where

their tree is located on city property. The board selected a list of types of trees for the community to choose from are: Linden, Redbud, Dogwood, Maple, Oak, Cypress, Evergreen and there is a possibility of adding a Fruit tree. The donor will also have the option of selecting whether they want the tree in a park or non-park setting.

Ben Kinel suggested that as a kick-off to the program the City sponsor some trees to remember those that helped create Branson including Lyle Owen and many others.


The next item on the agenda was the 2011 TRIM grant. The Board decided to include tree trimming at Sunset park, the island plantings on Gretna Road and possibly planting vines along the new Fall Creek Road extension to help cover the rock bluffs.

The Board then discussed the 2011 goals and Tree Board Plan, Tara Norback handed out the Community Forestry Program Annual Report which is included in the Tree City USA packet to help keep us on track for what we have done in the last 12 months and what we can do in the next 12 months. Then a handout titled "A Technical Guide to Developing Urban Forestry Strategic Plans & Urban Forest Management Plans" by the Wisconsin Department of Natural Resources and finally from arborday.org the "Urban & Community Forestry: A Practical Guide to Sustainability". Tara thought that each of these would help them create a plan that would get the community involved, help create partnerships and create a sustainable community forestry program for the city. A more detailed discussion of goals will occur at the next scheduled meeting.

Finally, Tara wanted to let the Board know that she wanted to nominate them for the Arbor Award of Excellence. Tara has wanted to apply for this award but never felt anything was worthy enough. Now, with the recent ArborFest event, Tara feels it qualifies and will be sending in the application by the beginning of December. She also discussed nominating Rick Davis. Clark Harris agreed in regards to his work with the purchasing of the Owen's property. It was then discussed that multiple awards could be applied for. Another suggestion was for Jack Herschend and Ben Kinel and the Gift of Green. It was decided that applications would be submitted for the Municipalities/Government, Individual and Organization categories.

For the next meeting, we will be discussing the memorial tree program, an update on the TRIM grant and the Downtown trees.

Meeting was adjourned at 2:55 pm by Clark Harris and seconded by Julie Wolfe.


Kenton Olson, Chairperson

1/5/11
Date


Tara Norback, Planning Assistant

1/5/11
Date

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING THE ADOPTED 2011 BUDGET FOR THE CITY OF BRANSON, TO ADJUST MONIES FOR THE GENERAL FUND AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME.

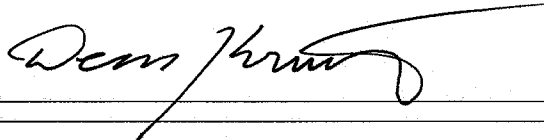
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: FINANCE DEPARTMENT

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Per Branson Code (Sec. 2-418. Budget Modification), any increase in appropriation within a budgeted fund shall require the approval of the Board of Aldermen; therefore, the following budget amendments are proposed for the 2011 budget.

Airport:

Per the Board of Aldermen's direction, staff has found money in the 2011 Budget to reallocate for the Branson Airport TDD. Therefore this amendment will increase the Branson Airport expenditure line item in the Non-Department to \$35,000.

Account Number & Name	Increase Budgeted Acct	Decrease Budgeted Acct
101-1095-510.20-95 (GF-Branson Airport)	\$ 35,000.00	
Unreserved Fund Balance		\$ 35,000.00

The above entry will increase the Branson Airport budgeted expenditures for 2011 by \$35,000.00 and decrease the Ending Unreserved Fund Balance by \$35,000.00.

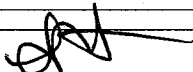
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: As listed above



ATTACHED INFORMATION: Detail Budget Line Items

Detail Budget Line Items

Non-Departmental

Account #	Account Description	2009 Actual	2010 Budget - 12 month	2010 Estimated - 12 month	2011 Budget
101-1095-510.10-23	LIFE INSURANCE	-20	0	0	0
101-1095-510.10-26	WORK COMP UNDER 1000	2,465		4,572	5,000
	Personnel	2,445	0	4,572	5,000
101-1095-510.20-01	ELECTRICITY	941	0	0	0
101-1095-510.20-04	TRASH SERVICE	237	0	0	0
101-1095-510.20-08	POSTAGE	20,545	21,000	20,000	21,000
101-1095-510.20-09	TELEPHONE	122,271	171,250	137,500	111,000
101-1095-510.20-16	COMPUTER SERVICES	0	0	0	0
101-1095-510.20-44	PRINTING	6,522	4,000	3,700	4,000
101-1095-510.20-45	ADVERTISING	482	0	0	0
101-1095-510.20-48	INSURANCE	476,610	478,000	477,463	480,000
101-1095-510.20-51	MAINTENANCE/BUILDINGS	4,810	5,000	5,000	5,000
101-1095-510.20-55	MAINTENANCE/OFFICE EQUIP	0	9,100	0	0
101-1095-510.20-57	MAINT/SOFTWARE LICENSES	99,030	103,000	105,876	109,052
101-1095-510.20-58	MAINT/COMMUNICATION EQUIP	8,003	0	0	0
101-1095-510.20-61	RENT/OTHER	5,436	6,400	5,300	5,255
101-1095-510.20-62	OPERATING LEASES	0	53,000	53,000	0
101-0100-510.20-64	TANEY CO AIRPORT MAINT	10,000	0	0	10,000
101-1095-510.20-72	ELECTION COSTS	3,926	0	5,407	5,500
101-1095-510.20-80	DAMAGES & CLAIMES	0	7,000	0	10,000
101-1095-510.20-95	BRANSON AIRPORT	152,364	267,555	267,555	35,000
101-1095-510.20-99	CONTRACTUAL SERVICE/OTHER	877,926	900,000	900,000	925,000
	Contractual	1,789,103	2,025,305	1,980,801	1,720,807
101-1095-510.40-01	OFFICE SUPPLIES	461	0	3,000	3,000
101-1095-510.40-03	MAINTENANCE SUPPLIES	1,197	1,300	200	500
101-1095-510.40-10	OFFICE EQUIPMENT	0	0	0	0
101-1095-510.40-43	MOTOR VEHICLE/TIRES	322	0	0	0
101-1095-510.40-99	COMMODITIES/OTHER	0	0	0	0
	Commodities	1,980	1,300	3,200	3,500
101-1095-510.70-06	LAND	0	0	231,953	0
	Capital			231,953	0
101-1090-510.91-20	BRANSON CONVENTION CENTER	681,069	920,000	420,000	400,000
101-1095-510.90-08	BUILDING LEASE-Fund 160	750,000	750,000	750,000	527,085
101-1095-510.91-60	BRNSN MDWS-TRSFR DEBT-160	952,495	966,000	966,000	809,615
101-1095-510.91-65	BRANSON LNDNG-TRSFR DEBT-165	1,152,157	1,000,000	900,000	1,000,000
101-1095-510.91-70	BRNSN HILLS-IDA-TRSFR DEBT-170	694,176	600,000	640,000	650,000
101-1095-510.91-71	CAPITAL PROJECTS PLANNING	0	300,000	300,000	0
101-1095-510.92-30	RECREATION FUND	945,659	591,859	591,859	574,639
	Transfers	5,175,556	5,127,859	4,567,859	3,961,339
Grand Total		6,969,084	7,154,464	6,788,385	5,690,646

BILL NO. 3877

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ADOPTED 2011 BUDGET FOR THE CITY OF BRANSON, TO ADJUST MONIES FOR THE GENERAL FUND AND AUTHORIZING THE MAYOR TO EXECUTE THE SAME.

WHEREAS, Section 2-418 of the Branson Municipal code states that any increase in appropriation within a budgeted fund shall require the approval of the Board of Aldermen; and

WHEREAS, it is necessary to adjust monies for the General Fund and Demolition Services in the 2011 budget.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, THAT THE 2011 BUDGET FOR THE CITY OF BRANSON IS HEREBY AMENDED AS FOLLOWS:

Section 1: The following amendment is authorized to transfer funds within the 2011 budget of the General Fund.

<u>General Fund</u>	<u>Increase Amount</u>	<u>Decrease Amount</u>
101-1095-510.20-95 (GF-Branson Airport)	\$ 35,000.00	
Unreserved Fund Balance		\$ 35,000.00

Read, this first time on this ____ day of _____, 2010.


Read, this second time, passed and truly agreed to by the Board of Aldermen of City of Branson, Missouri this ____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 86 OF THE BRANSON MUNICIPAL CODE PERTAINING TO EMERGENCY AND EXPERIMENTAL REGULATIONS.

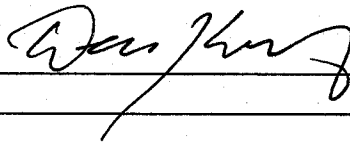
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ENGINEERING 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

The existing city code of ordinances allows the chief of police, along with the city traffic engineer, to establish regulations for traffic control. A good example of this would be the installation of a "No U Turn" sign. These types of signs are not codified for enforcement like stop signs or speed limits but yet may be needed and the police must have the ability to enforce the regulation.

Unfortunately the existing code has a 90 day limitation on these signs which is causing problems. If the sign is determined to be needed, then the sign should remain in place as long as the traffic situation exists.

The attached ordinance will delete the 90 day time limit and allow the signs to be left in place as long as that particular regulation is warranted.

This bill reflects the amendment made on it's first reading during the December 14, 2010 meeting making the limit no longer than one year.

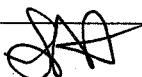
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

**AN ORDINANCE AMENDING CHAPTER 86 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO EMERGENCY AND EXPERIMENTAL REGULATIONS.**

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:**

Section 1: That Chapter 86 – *Traffic and Vehicles*, Article II – *Administration and Enforcement* –
Section 86-41 – *Emergency and experimental regulations* of the Branson Municipal Code
is amended as follows:

Sec. 86-41. Emergency and experimental regulations.

- (a) The chief of police by and with the approval of the city traffic engineer is hereby
empowered to make regulations necessary to make effective the provisions of the traffic
ordinances of the city and to make and enforce temporary or experimental regulations to
cover emergencies or special conditions. No such temporary or experimental regulation
shall remain in effect for more than [90 days] **one-year**.
- (b) The city traffic engineer may test traffic control devices under actual conditions of traffic.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE
WHICH IS [~~BRACKETED, STRICKEN~~] HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson,
Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AUTHORIZING THE CITY TO AMEND THE AGREEMENT WITH DELICH, ROTH, & GOODWILLIE, P.A., PERTAINING TO THE ROUTE 248/US 65 DIVERGING DIAMOND INTERCHANGE PROJECT.

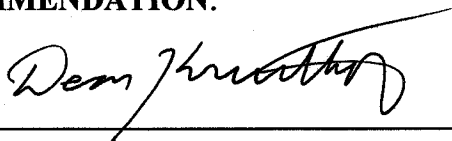
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ENGINEERING 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill



STAFF REPORT:

In 2004, DRG completed the original design of the Hwy 65/248 interchange. Those plans, including the plans for traffic control and detours, were accepted and approved by MoDOT. Closure of the entrance and exit ramps were an integral part of the plans. In January, MoDOT suggested the plans be changed to a diverging diamond interchange which lowered Branson's estimated construction costs by \$600,000. MoDOT was involved in the development of the scope of services which did not include any changes to the traffic control. The plans are now complete and during the recent final plan review, MoDOT revised their previous decision and determined that the entrance and exit ramps must remain open at all times. This is due to the interchange being part of the Taneycomo Bridge detour and also results in easier access for visitors and shoppers in that area. There will also be a savings of \$45,000 in detours signage and a calculated savings of \$120,000 in travel time, fuel and congestion.

Unfortunately many plan sheets will now require complete redesign. The work can be done within eight weeks which allows the project to bid in April. DRG has determined that the staff time to make the required changes will cost \$45,274 and so their design contract must be amended. The transportation sales tax account has funds available to cover this cost.

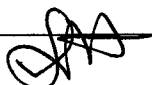
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: ENG23 140-5010-510.90-11



ATTACHED INFORMATION:

BILL NO. 3879

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING THE MAYOR TO EXECUTE AN AMENDMENT TO THE PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH DELICH, ROTH, & GOODWILLIE, P.A. PERTAINING TO THE DESIGN OF THE ROUTE 248 AT US 65 DIVERGING DIAMOND INTERCHANGE PROJECT AND AUTHORIZING THE MAYOR TO ENTER INTO THE AGREEMENT.

WHEREAS, in February 2009 the City of Branson entered into an agreement with Delich, Roth, and Goodwillie for the design a diverging diamond configuration of the interchange of Route 248 at US 65 which involves a cost sharing agreement with the Missouri Department of Transportation; and

WHEREAS, the scope of services of the design contract did not anticipate the Missouri Department of Transportation's requirement for non-closure of the interchange ramps and the City has requested the plans be revised accordingly; and

WHEREAS, a supplemental agreement is necessary with Delich, Roth, and Goodwillie to incorporate the additional work into the scope of services for this project.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, AS FOLLOWS:

Section 1: The Board of Aldermen hereby authorizes the Mayor to execute an amendment to the Contract with Delich, Roth, & Goodwillie on behalf of the City of Branson for the preparation of traffic control and detour revisions for the diverging diamond interchange configuration at Route 248 and US 65 in substantially the form attached as Exhibit "1".

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this ____ day of _____, 2010.

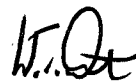
Read, this second time, passed and truly agreed to by the Board of Aldermen of City of Branson, Missouri this ____ day of _____, 2010.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

ROUTING ORDER	(1) CITY CLERK	(2) FINANCE DEPARTMENT	(3) CITY ATTORNEY
	(4) CITY ADMINISTRATOR	(5) ORIGINATING DEPT.	(6) CONTRACTOR
EFFECTIVE DATE	TERMINATION DATE	CONTRACT NUMBER:	
(X) NEW CONTRACT		() RENEWAL OF CONTRACT No. _____	
CITY		CONTRACTOR	
CITY OF BRANSON 110 W. MADDUX, SUITE 310 BRANSON, MO 65616 PHONE: (417) 337-8559 FAX: (417) 337-8181 CONTRACT ADMINISTRATOR: DAVID MILLER DEPT: ENGINEERING		NAME: DELICH, ROTH & GOODWILLIE, PA ENGINEERS ADDRESS: 1001 E. 101ST TERRACE, STE. 210 KANSAS CITY, MISSOURI 64131 PHONE: (816) 221-4222 FAX: (816) 471-4813 ATTN: ANGELO MANNINO, PE SSN/EIN: <u>48-0800763</u>	

AGREEMENT FOR PROFESSIONAL ENGINEERING SERVICES

THIS AGREEMENT made as of the 1st day of December, 2010, by and between the City of Branson, Missouri (hereinafter called OWNER) and DELICH, ROTH & GOODWILLIE, PA, Engineers, specializing in consulting engineering services (hereinafter called ENGINEER).

OWNER requires professional engineering services in connection with the re-design of the Route 248/US 65 diamond interchange thus providing plans to construct a new Diverging Diamond Interchange at the same location.

Therefore, OWNER and ENGINEER in consideration of their mutual covenants agree as follows:

ENGINEER shall serve as OWNER'S professional engineering consultant in those assignments to which this Agreement applies, and shall give consultation and advice to OWNER during the performance of their services. All services shall be performed under the direction of a professional engineer registered in the State of Missouri and qualified in the particular field.

SECTION I – AUTHORIZATION OF SERVICES

- 1.1 Services on any assignment shall be undertaken only upon written authorization of OWNER and agreement of ENGINEER.
- 1.2 Assignments may include services described hereunder as Basic Services or as Additional Services of ENGINEER.

SECTION 2 – BASIC SERVICES OF ENGINEER

- 2.1 General

- 2.1.1 Perform professional design services in connection with the specifically authorized Project as hereinafter stated which shall include normal civil engineering services and related design services incidental thereto. The scope of services to be provided is to be as listed on the attached proposal for engineering services hereinafter referred to as Exhibit A, for the re-design of the Route 248/US 65 Interchange to provide a Diverging Diamond Interchange dated January 8, 2010.
- 2.1.2 As directed by MoDOT, the Diverging Diamond Interchange will be revised to eliminate ramp closures during construction of said project. This work will include the addition of necessary roadway design features to eliminate construction detours.
- 2.1.3 The traffic control plan and possibly the traffic phasing for this project will be analyzed. Necessary plan modifications will consist of design and recalculations of earthwork, pavement cross sections, special sheets, traffic control plan sheets, quantities/quantity sheets and estimate.
- 2.2 Final Design Phase
 - 2.2.1 Revise plan documents for incorporation in the April 2011 Missouri Department of Transportation Contract Letting, consisting of the necessary detailed plans sufficient to show the character and scope of the work to be performed by contractors on the Project (hereinafter called the "Contract Drawings") for the construction of a Diverging Diamond Interchange. Prepare any Special Provisions, Special Technical Specifications and Bid Documents (all of which are hereinafter called the "Contract Documents").
 - 2.2.2 Furnish to OWNER such documents and design data as may be required for, and assist in the preparation of, the required documents so that OWNER may secure approval of such governmental authorities as have jurisdiction over design criteria applicable to the Project.
 - 2.2.3 Advise OWNER of adjustments in excess of ten percent of the cost estimate for the Project caused by changes in scope, design requirements or construction costs and furnish a revised cost estimate for the Project based on the final Contract Drawings and Bid Documents.
 - 2.2.4 Furnish three approval copies of the final Contract Drawings and Bid Documents for the Diverging Diamond Interchange.
 - 2.2.5 All plans, specifications, estimates, drawings and documents prepared or furnished by the ENGINEER shall conform to federal and state laws and city ordinances.
 - 2.2.6 Furnish one (1) set of reproducible approved Final Contract Drawings and Bid Documents and also furnish an electronic set.
- 2.3 Construction Phase
 - 2.3.1 As described in a Cost-Share Agreement with the Missouri Department of Transportation (MoDOT), MoDOT shall perform full time inspections during the Construction Phase of Project for purposes of interpretation of plans and specifications.
 - 2.3.2 MoDOT shall review all shop drawing submittals.
 - 2.3.3 MoDOT shall furnish to OWNER record drawings which include all revisions made during construction.

SECTION 3 – ADDITIONAL SERVICES OF ENGINEER

- 3.1 General
 - If authorized in writing by OWNER and agreed to in writing by ENGINEER, ENGINEER shall furnish or obtain from others Additional Services of the following types which are not considered normal or customary Basic Services. The scope of Additional Services may include:
 - 3.1.1 Administrative Assistance
 - Provide contract and project administration to the degree authorized by OWNER.
 - 3.1.2 Obtain Services of Others
 - 3.1.3 Provide through subcontract the services or data other than those set forth in paragraph 2.1.1.
 - 3.1.4 Prepare to serve or serving as a witness for OWNER in any litigation or other proceedings

- involving the Project.
- 3.1.5 Extra Services
Services not specifically defined heretofore that may be authorized by OWNER.

SECTION 4 – RESPONSIBILITIES OF OWNER

OWNER shall, within a reasonable time, so as not to delay the services of ENGINEER:

- 4.1 Provide full information as to his requirements for the Project.
- 4.2 Assist ENGINEER by placing at his disposal available information pertinent to the assignment including previous reports and any other data relative thereto.
- 4.3 Guarantee access to and make all provisions for ENGINEER to enter upon public and private property as required for ENGINEER to perform his services under this Agreement.
- 4.4 Examine all studies, reports, sketches, estimates, Bid Documents, Drawings, proposals and other documents presented by ENGINEER and render in writing decisions pertaining thereto.
- 4.5 Provide such professional legal, accounting, financial and insurance counseling services as may be required for the Project.
- 4.6 Designate in writing a person to act as OWNER'S representative with respect to the services to be performed under this Agreement. Such person shall have complete authority to transmit instructions, receive information, interpret and define OWNER'S policies and decisions with respect to materials, equipment, elements and systems to be used in the Project, and other matters pertinent to the services covered by this Agreement.
- 4.7 Give prompt written notice to ENGINEER whenever OWNER observes or otherwise becomes aware of any defect in the Project.
- 4.8 Furnish approvals and permits from all governmental authorities having jurisdiction over the Project and such approvals and consents from others as may be necessary for completion of the Project.
- 4.9 Furnish or direct ENGINEER to provide necessary Additional Services as stipulated in Section 3 of this Agreement or other services as required.

SECTION 5 – PERIOD OF SERVICE

- 5.1 This Agreement will become effective upon the first written notice by OWNER authorizing services hereunder.
- 5.2 This Agreement shall be applicable to all assignments authorized by OWNER and accepted by ENGINEER subsequent to the date of its execution and shall be effective as to all assignments authorized prior to the completion date. All assignments authorized prior to the completion date, even if to be performed in whole or in part subsequent to the completion date, shall be governed by the terms and conditions of this Agreement. At the completion date, upon mutual agreement of the parties hereto, this Agreement may be extended, renegotiated or terminated. Such extension, renegotiation or termination shall not have any effect upon assignments authorized prior to the completion date.

- 5.3 Performance time for individual assignments shall be agreed upon at the time of authorization. Work shall be started within ten (10) days of authorization of Notice to Proceed.

SECTION 6 – PAYMENTS TO ENGINEER

6.1 Amount of Payment

For services performed, OWNER shall pay ENGINEER the sum of amounts determined as follows:

- 6.1.1 For expenses incurred by ENGINEER, such as authorized travel and subsistence including airfare, food, lodging, automobile rental, commercial services, and incidental expenses, the cost to the ENGINEER.
- 6.1.2 For reproduction, printing, long-distance telephone calls, company vehicle usage, testing apparatus, computer services and computer-assisted drafting (CAD), amounts will be charged according to the ENGINEER'S standard rates in effect at the time service is provided.
- 6.1.3 For professional services rendered by others as subcontractor(s) to ENGINEER such as surveying, real property descriptions, soil borings, subsurface investigations, laboratory testing, field quality control tests, progress photos, or other activities required or requested by OWNER, will be billed at the cost to ENGINEER.

6.2 Maximum Amount of Payment

Payment for services rendered under this Agreement shall be subject to the following limitations:

- 6.2.1 For services performed in 2.2, 2.3 and 2.4 the amount to be paid to the ENGINEER by the OWNER as full remuneration for the performance of all services called for in this Agreement will be on the basis of the Engineer's actual costs of **\$40,065.75** plus a fixed fee of **\$5,208.55**. The combined costs and fee will not exceed a maximum amount payable of **\$45,274.30** which is shown in Exhibit A, "Design Man-hour Estimate" and Exhibit A, "Summary of Costs", attached hereto and made a part of this Agreement.
- 6.2.2 The maximum amount of payment for services other than those listed in 6.2.1 will be established at the time of authorization of those services.

6.3 Method of Billing

- 6.3.1 A monthly statement shall be rendered by the ENGINEER to OWNER for payment covering all engineering services performed during that month.

6.4 Payment

- 6.4.1 The ENGINEER shall submit an invoice for services rendered to the OWNER not more than once every month. A graphic progress report indicating the current status of the services shall be submitted along with each invoice. Upon receipt of the invoice and progress report, the OWNER will, as soon as practical, but not later than 30 days from receipt, pay the ENGINEER for the services rendered, including the proportion of the fixed fee earned as reflected by the estimate of the portion of the services completed as shown by the progress report, less partial payments previously made. A late payment charge of one and one half percent (1.5%) per month shall be assessed for those invoiced amount not paid, through no fault of the ENGINEER, within 45 days after the OWNER's receipt of the ENGINEER's invoice. The OWNER will not be liable for the late payment charge on any invoice which requests payment for costs which exceed the proportion of the maximum amount payable earned as reflected by the estimate of the portion of the services completed, as shown by the progress report. The payment, other than the fixed fee, will be subject to final audit of actual expenses during the period of the Agreement.
- 6.4.2 Any unsettled claims pertaining to additional services shall not constitute a basis for nonpayment of statements covering authorized work.

SECTION 7- GENERAL CONSIDERATIONS

7.1 Estimates

Since ENGINEER has no control over the cost of labor, materials, or equipment, or over Contractor's methods of determining prices, or over competitive bidding or market conditions, the estimates of construction cost provided for herein are to be made on the basis of his experience and qualifications and represent his best judgment as a design professional familiar with the construction industry, but ENGINEER cannot and does not guarantee that the bids or the project construction cost will not vary from cost estimates prepared by him.

7.2 The ENGINEER shall indemnify, protect and save the OWNER harmless from and against any and all claims, demands, liabilities and costs, including attorneys' fees, arising from claims under the Workmen's Compensation Act. Claims for contract damages, claims for damages because of bodily injury including personal injury, sickness or disease, or death of any of the ENGINEER'S employees or of any person other than his employees and from claims for damages because of injury to or destruction of tangible property including loss of use resulting therefrom, to the extent that any such claims, demands, liabilities and costs are the result of a negligent act, error or omissions of ENGINEER, ENGINEER will also defend, indemnify, and hold OWNER harmless from claims and demands arising as a result of ENGINEER'S nonprofessional liability which is covered by ENGINEER'S comprehensive general liability insurance policy, and from claims and demands arising out of the award of this contract.

7.2.1 The ENGINEER assumes full responsibility for relations with any third parties acting as subcontractors, agents, suppliers or laborers of the ENGINEER, and shall defend, indemnify and save harmless the OWNER from and against, any and all liability, suits, claims, damages, costs (including attorneys' fees), losses, outlays, and expenses in any manner caused by, arising out of or connected with the ENGINEER'S performance of this contract.

7.3 Suspension of Services

Should OWNER fail to fulfill his responsibilities as provided under Section 4 to the extent that ENGINEER is unduly hindered in his services or if OWNER fails to make any payment to ENGINEER on account of his services and expenses within 90 days after receipt of ENGINEER'S bill therefore, ENGINEER may, after giving seven days' written notice to owner, suspend services under this Agreement until OWNER has satisfied his obligations under this Agreement.

7.4 Termination

This Agreement may be terminated by either party by seven (7) days' written notice in the event of substantial failure to perform in accordance with the terms hereof by the other party through no fault of the terminating party. This Agreement may also be terminated if the OWNER and ENGINEER fail to agree on the maximum amount of payment under 6.2.2. If this Agreement is so terminated, ENGINEER shall be paid as provided under Section 6 for all services rendered and expenses incurred to the date of receipt of notice of termination.

7.5 Ownership of Documents

All documents, including original drawings, estimates, specifications, written design criteria and written reports are and remain the property of the ENGINEER until such time as this Agreement is, for any reason, terminated, at which time they become the property of the OWNER. The ENGINEER shall furnish to the OWNER a set of reproducible record prints of drawings and copies of estimates, specifications, written reports, and written design criteria, in consideration of which the OWNER will use them fully in connection with the project and will not sell them, reuse or permit the reuse of said documents by others in connection with another facility. The

transfer of ownership of documents shall not constitute the transfer of any ownership or granting of a license in any proprietary rights that the ENGINEER may have in any data, designs, processes or other information incorporated in the documents.

7.6 Insurance

The ENGINEER will secure and maintain such insurance as will protect him or any of his employees from claims under workmen's compensation acts, claims for damages because of bodily injury including personal injury, sickness or disease, or death, and from claims for damages because of injury to or destruction of tangible property including loss of use therefrom.

7.7 No salaried officer or employee of the City, and no member of the City Council shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations and applicable provisions in RSMo. Chapter 105 shall not be violated.

7.8 The ENGINEER agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of ENGINEER or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.

7.9 The ENGINEER is an independent contractor and nothing contained herein shall constitute or designate the ENGINEER or any of its agents or employees as agents or employees of the City of Branson, Missouri.

7.10 The ENGINEER shall not be entitled to any of the benefits established for the employees of the City nor be covered by the Workmen's Compensation Program of the City.

7.11 Successor and Assigns

OWNER and ENGINEER each binds himself and his successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement, except as above, neither OWNER nor ENGINEER shall assign, sublet or transfer his interest in the Agreement without the written consent of the other.

7.12 Notices

All notices required to be in writing may be given by first-class mail addressed to City at 110 W. Maddux, Branson, Missouri, and ENGINEER at 1001 East 101st Terrace, Suite 210, Kansas City, Missouri. The date of delivery of any notice shall be the second full day after the date of its mailing.

7.13 Jurisdiction

This Agreement and every questions arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this Agreement be adjudicated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

7.14 Extent of Agreement

This Agreement represents the entire and integrated agreement between OWNER and ENGINEER and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both OWNER and ENGINEER.

IN WITNESS WHEREOF, the City of Branson, by and through its Mayor, and Delich, Roth, & Goodwillie, P.A. by its authorized officer have made and executed this Agreement as of the day and year first above written.

(OWNER) CITY OF BRANSON, MISSOURI

By _____
Raeanne Presley
Mayor

Attest:

Lisa K Westfall
City Clerk

(ENGINEER) DELICH, ROTH, &
GOODWILLIE, P.A. Engineers

By _____
Angelo Mannino
12/01/2010
Title _____
Principal

Approved as to Form:

W.T. Duston
William T. Duston
City Attorney

EXHIBIT A
Branson Interchange
Route 65 DDI

PERIOD OF SERVICE

The phases of work will be completed in accordance with the following schedule:

1. **FINAL PS&E PLAN SUBMITTAL : February 14, 2011** (10 weeks prior to April 2011 letting)

The OWNER will grant time extensions for unavoidable delays beyond the control of the ENGINEER. Requests for extensions of time shall be in writing by the ENGINEER, before plans are due, stating fully the reasons for the request.

Exhibit A							
MISSOURI DEPARTMENT OF TRANSPORTATION							
MO Hwy 248 & Business 65 Interchange @ US 65							
Design Man-hour Estimate							
FINAL ROADWAY DESIGN PHASE (SUPPLEMENTAL 1)							
Classification	P1C	P1A	D3M	D3E	D1B	T4	A2
DESIGN PHASE							
Evaluate Impacts - Ramps Open vs. Ramp Closures	4	4	8		16		
Modify Cross Sections			8		8		
Re-Calculate Earthwork Runs/Re-Balance Earthwork			16				
Miscellaneous Build Notes					24		
Revise Existing Special Sheets			8				
Special Sheet - Asphalt Depth Transitions on Ramps			4		24		
Revise Traffic Control Plan		8	8		160		
Revise Quantities					16		
Modify Quantity Sheets					8		
Revise Estimate	4		4				
DRG Quality Control (plan review & corrections)	8	8	8		24		
District Plan Review Revisions			16		16		
Project Administration		4					2
Construction Phase Inquiries		3	10		10		
ROADWAY TOTALS	16	27	90	-	306	-	2

Exhibit A				
MISSOURI DEPARTMENT OF TRANSPORTATION				
MO Hwy 248 & Business 65 Interchange @ US 65				
Design Man-hour Estimate				
Final Roadway Design Phase (Supplemental 1)				
CLASS	TOTAL HOURS	SALARY RATE	COST	
P1	16	\$ 52.95	\$ 847.20	
P1	27	\$ 50.60	\$ 1,366.20	
D3M	90	\$ 36.72	\$ 3,304.80	
D3E	-	\$ 35.00	\$ -	
D1B	306	\$ 34.14	\$ 10,446.84	
T4	-	\$ 30.25	\$ -	
A2	2	\$ 30.63	\$ 61.26	
	441			
	Direct Salary Subtotal		\$ 16,026.30	
	Salary Escalation (0%)		\$ -	
	Direct Salary Total		\$ 16,026.30	
	Overhead (150.00%)		\$ 24,039.45	
	Total Labor Cost			\$ 40,065.75
	Fixed Fee of Labor Cost @13%			\$ 5,208.55
	Subtotal Labor			\$ 45,274.30
	Direct Costs:			
	Mileage		\$ -	
	Meals		\$ -	
	Printing		\$ -	
	Subtotal Direct Costs			\$ -
	Final Roadway Design Phase Costs			\$ 45,274.30

Exhibit A
Branson Interchange
Highway 65 DDI
Final Design Man-hour Estimate (Supplemental 1)

SUMMARY OF COSTS

Final Roadway Design Phase

Direct Salary Subtotal	\$ 16,026.30	
Salary Cost Escalation (3%)	\$ -	
Overhead (150.00%)	\$ 24,039.45	
Fixed Fee (13%)	\$ 5,208.55	
TOTAL ROADWAY DESIGN PHASE		\$ 45,274.30

Direct Costs

Mileage	\$ -	
Meals	\$ -	
Printing & Mailing	\$ -	
TOTAL DIRECT COSTS		\$ -
TOTAL ROADWAY COSTS		\$ 45,274.30

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 22 OF THE BRANSON MUNICIPAL CODE PERTAINING TO DANGEROUS BUILDINGS.

FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: PLANNING & DEVELOPMENT

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.

STAFF REPORT:

The purpose of this ordinance is to remedy the problem with abandoned buildings to prevent their downward spiral caused by neglect. These buildings not only become an eye-sore, but they also become an attractive nuisance, promote vagrancy, can harbor rodents and other pests, and can de-value surrounding properties. Over a period of time, the deterioration of such structures increases the danger to anyone entering the building. This ordinance provides a start-to-finish action plan, defining the methods for identifying and validating a structure as a dangerous building through to the abatement, either by repair or demolition. The ordinance details the steps necessary for ensuring that a proper determination is made and actions taken. These processes include:

- Inspection of a structure by the Building, Fire, Health and Code Enforcement Departments.
- Documenting the inspection results with a recommended action.
- Serving notices to all interested parties as to the findings and required actions.
- Establishing formal appeals processes.
- Having provisions for the City to abate the problem, if required, and to seek recovery of costs.

The ordinance was reviewed by the Tri-Lakes Board of Realtors and their attorney on several occasions with their recommendations incorporated. A detailed legal review of this ordinance, with changes and additions, was also provided by Betsy Blake, from the consulting firm of Williams & Campo, P.C. Funds to effectuate this ordinance have been allocated in the 2011 budget.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A

ATTACHED INFORMATION:

**AN ORDINANCE AMENDING CHAPTER 22 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO DANGEROUS BUILDINGS.**

WHEREAS, a need has been determined for regulations and procedures for the upkeep of buildings within the city of Branson to provide for the health, safety, and welfare of the community; and

WHEREAS, the Board of Aldermen wishes to amend the Branson Municipal Code as follows:

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:**

Section 1: That Chapter 22 – *Buildings and Building Regulations*, Article IX – *Abatement of Dangerous Buildings* – Section 22-200 – *Definitions* – Section 22-201 – *Purpose, Scope and Intent*, Section 22-202 – *Duties of Inspector*, Section 22-203 – *Duties of Director*, Section 22-204 – *Dangerous Buildings Declared Nuisances*, Section 22-205 – *Notice and Order*, Section 22-206 – *Standards for Repair, Vacation and Demolition*, Section 22-207 – *Notice to Vacate; Procedure and Notice*, Section 22-208 – *Failure to Comply with Notice and Order*, Section 22-209 – *Appeals from the Decision of the Director*, Section 22-210 – *Appeals from the Board of Appeals*, Section 22-211 – *Enforcement of Order of Abatement; Compliance*, Section 22-212 – *Enforcement of Order; Extension of Time to Perform Work*, Section 22-213 – *Enforcement of Order; Interference with Repair or Demolition Work Prohibited*, Section 22-214 – *Performance of Work of Repair or Demolition by City; General Provisions*, Section 22-215 – *Issuance of Tax Bill for Cost of Work*, Section 22-216 – *Insurance proceeds* of the Branson Municipal Code is added as follows:

ARTICLE IX. ABATEMENT OF DANGEROUS BUILDINGS

Sec. 22-200. Definitions.

**For the purpose of this article, certain terms and words are hereby defined as follows.
Any word not defined herein shall have its usual meaning.**

Abandoned Building means any building that has been vacated for a period exceeding six (6) months and where there has been a voluntary relinquishment of all right, title, claim, and possession, with the intention of not reclaiming it.

Abatement is the act of eliminating or terminating a condition.

Attractive Nuisance means a hazardous object or condition on land that is likely to attract children.

Board of Appeals means the board appointed by the city's Board of Aldermen to hear and rule on appeals from the decision of the director pursuant to this article.

Building means any structure used for or capable of supporting or sheltering any use or occupancy.

Dangerous Building means any building or structure whose condition(s) threatens the life, health, safety, or property, of either its occupants or the public, and that has one or more of the following conditions:

- (1) The means of egress is not of sufficient width or size, or is not so arranged, as to provide safe and adequate means of exit in case of fire or panic.
- (2) The floor(s) or stairway(s) is so warped, worn, loose, torn, or otherwise unsafe as to not provide safe and adequate means of egress in case of fire or panic.
- (3) Where either the floor or the roof is overloaded or of insufficient strength, to be reasonably safe for the purpose used.
- (4) Where any portion, member, or appurtenance thereof has been damaged so that the structural strength or stability of any portion of the structure/building threatens the life, health, safety, or property of the occupants or public.
- (5) Where any portion, member, appurtenance, or ornamentation thereof, is of insufficient strength or stability (for whatever reason), so that it threatens the life, health, safety, or property of the occupants or public.
- (6) Where the building or structure, or any portion thereof, for whatever cause, is likely to partially or completely collapse.
- (7) Where, for whatever reason, the building or structure, or any portion thereof, is so unsafe for the purpose for which it is being used, so as to threaten the life, health, or safety of the occupants or public.
- (8) Where the exterior walls or other vertical structural members list, lean, or buckle to such an extent that a plumb line passing through the center of gravity does not fall inside the middle one-third of the base.
- (9) Where the building or structure, exclusive of the foundation, shows thirty-three (33) percent or more damage or deterioration of its supporting member or members, or fifty (50) percent damage or deterioration of its non-supporting members, enclosing or outside walls or coverings.
- (10) Where the building or structure has been so damaged (from whatever cause) so as to become dangerous to life, safety, or the general health and welfare of the occupants or the public.
- (11) Where the building, structure, or portion thereof has become:
 - a. An attractive nuisance.

- b. A harbor for vagrants, criminals, or immoral persons.
 - c. A place that persons resort to for the purpose of committing unlawful or immoral acts.
- (12) Where the light, air, or sanitation facilities are inadequate to protect the health, safety, or general welfare of human beings who live or may live therein.
 - (13) Where such building or structure is in violation of the city's building regulations or adopted code, or any other law or ordinance that protects the life, health, and safety of the occupants or public.
 - (14) Where such building or structure has any non-supporting part, member or portion less than fifty (50) percent, or in any supporting part, member or portion less than sixty-six (66) percent, of the strength, fire-resisting qualities or characteristics, or weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location.
 - (15) Where such building or structure, for whatever reason, is determined to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.
 - (16) Where the building or structure, for whatever reason, is determined to be a fire hazard.

Director means, in the context of this article, the person appointed by the city as the director of planning & development. The director may select and appoint qualified persons as a designee.

Inspector means, in the context of this article, person(s) appointed by the director to perform inspections of buildings and structures in the enforcement of this article.

Interested Parties means any all owner(s), occupant(s), lessee(s), mortgagee(s), agent(s), and all other persons having an interest in the building or structure at issue, as shown by the land records of the Recorder of Deeds office in Taney County.

Notice and Order means the Notice and Order required by Section 22-205 of this article.

Order of Abatement means the order required by Section 22-208 of this article.

Premise means a lot, plot, or parcel of land, easement or public way, including any structures thereon.

Structure means that which is built or constructed.

Unoccupied Building means a building whose occupant(s) is temporarily absent and where the occupant's furniture and personal effects remain.

Vacant Building means a building having no tenant and is devoid of furniture, fixtures, and the like.

Sec. 22-201. Purpose, Scope and Intent.

- (1) *Purpose.* It is the purpose of this article to provide a just, equitable, and practicable method, to be cumulative with and in addition to any other remedy provided by the applicable building, fire, health, and property maintenance codes, or otherwise available by law, whereby buildings or structures, which from any cause endanger the life, limb, health, morals, property, safety, or welfare of the general public or its occupants, may be required to be repaired, vacated or demolished. The purpose of this article is not to create or otherwise establish or designate any particular class or group of persons who will or should be especially protected or benefited by the terms of this code.
- (2) *Scope.* The provisions of this article shall apply to all dangerous buildings, as herein defined, that are now in existence or which may hereafter become dangerous.
- (3) *Intent.* This article shall be construed to secure its expressed intent, which is to ensure public health, safety, and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises within the city. Existing structures and premises that do not comply with these provisions shall be altered or repaired to provide a minimum level of health and safety as required herein.

Sec. 22-202. Duties of Inspectors

Inspectors shall have the following duties under this article to:

- (1) Inspect, as may be necessary, all residential, institutional, assembly, commercial, industrial, garage, special, or miscellaneous occupancy buildings for the purpose of determining whether any conditions exist that gives the inspector reasonable grounds to believe that any such building is unsafe or dangerous.
- (2) Inspect any building, wall, or structure about which complaints are filed by any person to the effect that a building, wall, or structure is or may be existing in violation of this article, and the inspectors determine that there are reasonable grounds to believe that such building is unsafe or dangerous.
- (3) Inspect any building, wall, or structure reported by the fire or police departments of the city as probably existing in violation of this article.
- (4) Immediately report to the director any building or structure that the inspector finds to be a dangerous building. The director may direct the inspector to post on such building or structure written notice that reads substantially as follows:

"This building has been found to be a dangerous building by the city of Branson. This notice shall remain on this building or property until it is repaired, vacated, or demolished, and the property cleaned in accordance with the notice that has been given the owner, occupant, lessee, mortgagee or agent of this building, and all other persons having an interest in said building as shown by the land records of the Recorder of Deeds of Taney County,

Missouri. It is unlawful to remove this notice until such notice is complied with."

Provided, however, that the order and the posting of said notice shall not be construed to deprive all persons entitled thereto by this article to the notice and hearing prescribed herein.

- (5) Immediately report to the director any noncompliance with any Notice and Order, or failure to proceed continuously with work pursuant to such Notice and Order without unnecessary delay.
- (6) Appear at all hearings and appeals, and testify as to the conditions of any building or structure that falls under the purview of this article.
- (7) Entry. When it is necessary to make an inspection to enforce the provisions of this article, or when there is reasonable cause to believe that there exists in a building or structure a condition that is contrary to or in violation of this article, the inspector may enter the building or premises at reasonable times to inspect or to perform the duties imposed by this article. However, if such building or structure is occupied that credentials be presented to the occupant and entry requested. If such building or structure is unoccupied, vacant, or abandoned, the inspector shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises, and request entry. If no consent is given to enter or inspect any building or structure, the inspector shall notify the director who may request an administrative search warrant, as provided in this Municipal Code.

Sec. 22-203. Duties of Director

- (1) Administration. The director is hereby authorized to enforce the provisions of this article, and shall have the power to render interpretations of this article and to adopt and enforce rules and supplemental regulations in order to clarify the application of its provisions. Such interpretations, rules and regulations shall be in conformity with the intent and purpose of this article.
- (2) Inspections. The director shall supervise inspections as deemed necessary to enforce the provisions of this article. If the director deems it necessary for the performance of his/her duties and responsibilities imposed herein, the director may request an inspection and report be made by any other city department or retain services of another whenever the director deems such services necessary to the enforcement of this article.
- (3) Supervision. The director shall supervise all inspections required by this article, and cause the inspector to make inspections and perform all the duties required of the inspector by this article. Upon receiving a complaint or report from any source that a dangerous building exists in the city, the director shall cause an inspection to be made forthwith.
- (4) Notice and Order. The director shall provide a Notice and Order as required by this article, where such Notice and Order is required.

- (5) Administrative Search Warrant. The director shall take such action as is necessary to obtain an Administrative Search Warrant pursuant to a denial of right of entry.

Sec. 22-204. Dangerous Buildings Declared Nuisances.

All dangerous building, as defined herein are hereby declared to be public nuisances and shall be repaired, vacated, or demolished as provided herein.

Sec. 22-205. Notice and Order.

- (1) Commencement of Proceedings. When a building or structure has been inspected and has been determined to be a dangerous building, the director shall commence proceedings to cause the repair, vacation, or demolition thereof.
- (2) Notice and Order. The director shall issue a Notice and Order directed to the owner(s) of record for the building or structure, and all interested parties thereof.

The Notice and Order shall contain:

- a. The street address and legal description sufficient for the accurate identification of the premises upon which the building or structure is located.
- b. A statement that an inspection revealed that the building or structure is a dangerous building, with a concise description of the conditions found to render this conclusion.
- c. A statement of the remedial action(s) required to be taken as determined by the director.

Such statement of remedial action shall include direction concerning the following:

1. The owner must vacate, vacate and repair, or vacate and demolish said building or structure, and clean the lot or property on which the building or structure is located in accordance with the terms of the notice and of this article.
2. The occupant or lessee must vacate said building or have it repaired in accordance with the notice and remain in possession.
3. The mortgagee, agent, or other persons having an interest in said building or structure, as shown by the land records of the Recorder of Deeds of Taney County may, at his/her own risk, repair, vacate, or demolish the building, and clean the property or have such work done.

Provided that any person notified under this subsection to repair, vacate, or demolish any building or clean the property shall be given such reasonable time not exceeding thirty (30) days to begin compliance with such Notice and Order, without unnecessary delay. If it is necessary to obtain a building permit in order to comply with any Notice and Order, and the person has submitted a complete request to the

city for such permit, the time for the city to issue such permit shall not be included for purposes of determining whether the person in proceeding without "unnecessary delay."

- (3) *Service of Notice and Order.* The Notice and Order shall be sent via both first class regular mail (postage prepaid) and certified mail (postage prepaid) return receipt requested to the owner(s) of record and all interested parties. Notice sent via the U.S. Postal Service shall be effective as of the date of mailing. If the director learns that neither the regular mailed notice nor the certified mailed notice was received by the recipient (for any reason other than refusal), the director may attempt to have such party personally served with such notice.

If any person or interested party does not receive such notice, for whatever reason, such fact shall not invalidate any proceedings hereunder as to any other person duly served nor relieve any such person from any duty or obligation imposed by the provisions of this article. Mail returned by the US Postal Service marked "refused" shall constitute proof of service.

If service cannot be had by either personal service or mail, then service may be had by publication in a newspaper qualified to publish legal notices, for two (2) successive weeks.

- (4) *Emergency Powers Authorized.* In any case where it reasonably appears that there is an immediate danger to the health, safety, or welfare of any person, the director may take emergency measures to vacate and repair or demolish a dangerous building or structure.

Sec. 22-206. Standards for Repair, Vacation and Demolition.

The following standards shall be followed by the director in ordering the repair, vacation or demolition of any dangerous building or structure:

- (1) If the building or structure can reasonably be repaired so it no longer will exist in violation of the terms of this article, it shall be ordered repaired.
- (2) If the building or structure is in such condition as to make it dangerous to the health, safety, or general welfare of its occupants, it shall be ordered vacated. If the building or structure can reasonably be repaired, repairs shall be made so such building or structure no longer exists in violation of the terms of this article before being occupied.
- (3) In all cases where a building or structure cannot be repaired so it no longer will exist in violation of the terms of this article, it shall be ordered demolished.
- (4) In all cases where the building is a fire hazard, whether existing or erected, in violation of the terms of this article or any other part of this code or statute of the State of Missouri, it shall be repaired or demolished.

- (5) In all cases where a building or structure has been vacated, such building or structure shall be secured to prevent entry by vagrants or others with unlawful intent, and to prevent an attractive nuisance by the use of boarding or other substantially effective measures.

Sec. 22-207. Notice to Vacate; Procedure and Notice.

- (1) Posting. Every notice to vacate shall, in addition to being served as provided above, be posted at or upon each entrance of the building and shall be in substantially the following form:

DO NOT ENTER
UNSAFE TO OCCUPY
It is a violation to occupy this building, or to remove or deface this notice.
Building Department
City of Branson, Missouri

- (2) Compliance. Whenever such notice is posted, the director shall include a notification thereof in the Notice and Order issued specifying the conditions that necessitate the posting. No person shall remain in or enter any building that has been so posted, except that entry may be made to repair, demolish, or remove such building under permit. No person shall remove or deface any such notice after it is posted until the required repairs, demolition, or removal have been completed and all provisions of the Notice and Order have been duly met.

Sec. 22-208. Failure to Comply with Notice and Order.

- (1) Upon receipt of a report from the inspector indicating failure by the owner(s) or any interested party to commence work as required by the Notice and Order within the time specified by this article or upon failure to proceed continuously with work without unnecessary delay, the director shall hold a hearing giving the owner and interested parties full and adequate hearing on the matter. Such hearing shall be recorded in accordance Section 536.130, RSMo, and shall be considered a contested case for purposes of judicial review.
- (2) Written notice of such hearing shall be given at least ten days in advance of such hearing (in accordance with Section 22-205(3) of this article) directing the owner(s) and interested parties to appear before the director on the date specified in the notice to show cause why the building or structure reported to be a dangerous building should not be repaired, vacated, or demolished in accordance with the statement of particulars set forth in the Notice and Order.
- (3) Any party may be represented by counsel and all parties shall have an opportunity to be heard.
- (4) The director shall make written findings of fact from the evidence offered at said hearing as to whether or not the building or structure in question is a dangerous building as defined in this article.

- (5) If the evidence supports a finding based upon competent and substantial evidence that the building or structure is a dangerous building, the director shall issue a written Order of Abatement based on such findings of fact, commanding the owner(s) or other responsible party, to repair, vacate, board, or demolish any building or structure found to be a dangerous building and to clean the property. Provided that any person so notified, shall have the privilege of either vacating and repairing said building or structure (if such repair will comply with the ordinances of the city) or may vacate and demolish said dangerous building at his own risk to prevent the city from acquiring a lien against the land where the dangerous building stands. If the evidence does not support a finding that a building or structure is a dangerous building, no order shall be issued.
- (6) The written Order of Abatement from the director shall be delivered, by person or mail, to each party of the hearing, or their attorney of record. In addition, copies of the order shall be posted in a conspicuous place in the office of the director for a period of thirty (30) days from the date of issuance. The order shall state a reasonable time, to be no less than thirty (30) days from the date of issuance, within which to comply with the order, and shall further provide that if the work is not substantially completed within thirty (30) days of the issuance of the order, the city may, by its own employees or by contractor, perform the work necessary to bring the building into compliance with the director's order with costs levied to the property owner, or by a lien placed upon the property.

Sec. 22-209. Appeals from the Decision of the Director.

- (1) Any owner or interested party aggrieved by an Order of Abatement may appeal such order to the Board of Appeals. To be effective, such appeal shall conform with the requirements of this section and shall be received by the city clerk no later than thirty (30) days after the written Order of Abatement has been issued. For purposes of an appeal of an Order of Abatement, such appeal shall be considered a rehearing.
- (2) An appeal filed pursuant to this Section shall include the following information:
- a. The name and mailing address of the person requesting the appeal (referred to herein as the "appellant");
 - b. A description of the Order that he/she is appealing (including a copy of such Order);
 - c. A description of the appellant's interest in the property (e.g., ownership, leasee, mortgagee, etc.), and a description of how the Order may affect such interest;
 - d. A detailed description of the factual and legal grounds for the appellant's appeal;
 - e. Payment of costs for the planning and development department to schedule and give notice of appellant's hearing.

- f. The common street address or legal description of the affected property.
- (3) Upon request of the appellant, the Board of Appeals may stay enforcement of any Order of Abatement, pending the board's review of the appeal and final action related thereto.
- (4) Upon submission of a timely appeal that conforms with the above-stated requirements, the hearing of such appeal shall be scheduled to take place before the Board of Appeals within thirty (30) days of the filing of such appeal, and notice of such fact shall be provided to the appellant at the mailing address that he/she provided. Such notice shall also be sent to other Interested Parties, as defined by this article. The Board of Appeals shall be provided with copies of any and all notices, orders, briefs, and documents provided by appellant.
- (5) Unless waived by the appellant (either via formal waiver or failure to timely object), the hearing before the Board of Appeals shall be recorded (via a method capable of transcription) and include:
- a. A brief submitted by the director, outlining the basis for the Order of Abatement.
 - b. Any and all evidence that either the city or the appellant wishes to submit, which the Board deems relevant to the question of the validity of the director's Order of Abatement;
 - c. Any and all testimony, given under oath, that either the city or the appellant wishes to submit, which the Board deems relevant to the question of the validity of the director's Order of Abatement. Parties shall have the right to cross-examine any witness providing testimony;
 - d. Any party may request additional procedures not specifically outlined herein and the Board of Appeals shall consider and timely rule on such requests. Any and all exhibits presented at such hearing shall be made available to adverse parties prior to the hearing.
- (6) The Board of Appeals shall make a ruling, based upon competent and substantial evidence, either affirming or reversing (in part or in whole) the director's Order of Abatement (in accordance with Section 22-206). The Board shall provide the appellant a copy of a finding of fact and conclusions of law for the Board's decision within fifteen (15) days of the conclusion of the hearing.
- (7) The Board of Appeals may establish additional procedures to fulfill the purpose of this section.

Sec. 22-210. Appeals from the Board of Appeals.

Any person with standing aggrieved with the decision of the Board of Appeals may appeal such decision as provided by Chapter 536 of the Revised Statutes of the State of Missouri.

Sec. 22-211. Enforcement of Order of Abatement; Compliance.

- (1) *Generally.* After the time to appeal an Order of Abatement has passed, such Order shall become final, and it shall be a violation of this article for any person to whom such order is directed to fail, neglect, or refuse to obey any such order, or to fail to proceed in accordance with such order continuously without unnecessary delay.**
- (2) *Compliance with Posted Notices.* No person shall occupy any building that has been ordered vacated where notice has been posted of such fact. No person shall remove or deface any notice posted pursuant to this article until the repairs, demolition, or removal ordered have been completed and a certificate of occupancy issued pursuant to the provisions of the building code.**
- (3) *Repair by City.* The director may, in addition to any other remedy herein provided or otherwise allowed by law, cause the building or structure to be repaired to the extent necessary to correct the conditions that render the building or structure dangerous as set forth in the Order of Abatement; or, if the Order of Abatement required demolition, to cause the building to be demolished and the materials, rubble, and debris therefrom removed and the lot cleaned. Any such repair or demolition work shall be accomplished and the cost thereof paid and recovered in the manner provided in this article and as otherwise allowed by law.**

Sec. 22-212. Enforcement of Order; Extension of Time to Perform Work.

Upon receipt of an application from the person required to conform to the Order of Abatement, and by agreement of such person to comply with such Order if allowed additional time, the director may grant an extension of time, not to exceed an additional one-hundred twenty (120) days, within which to complete said repair, rehabilitation or demolition, if the director determines that such an extension of time will not create or perpetuate a situation imminently dangerous to life, health, safety, or property. The director's authority to extend time is limited to the physical repair, rehabilitation, or demolition of the building or structure, and will not in any way affect the time to appeal the Notice and Order.

Sec. 22-213. Enforcement of Order; Interference with Repair or Demolition Work Prohibited.

It shall be a violation of this article to obstruct, impede, or interfere with any person in his/her compliance or assistance with an Order of Abatement issued pursuant to this article.

Sec. 22-214. Performance of Work of Repair or Demolition by city; General Provisions.

When any work of repair or demolition is to be done pursuant to this article by the city, the director shall, through the city administrator, issue an order and the work shall be

accomplished by personnel of the city or by private contract under the direction of the director. The director may prepare plans and specifications, or may employ such architectural and engineering assistance on a contract basis as deemed reasonably necessary. If any part of the work is to be accomplished under private contract, standard contractual bid procedures shall be followed to minimize costs.

Sec. 22-215. Issuance of Tax Bill for Cost of Work.

- (1) *Manner of Payment.* Where the director issues an Order of Abatement (or where an emergency abatement has occurred and notice has been given in accordance with Section 22-205 of this article) and the city incurs costs associated with such Order or emergency abatement, the director shall certify the cost of the work to the city Clerk, who shall cause to be prepared a special tax bill therefore, inclusive of the costs of notice and hearing costs, which shall likewise be certified by the director. This tax bill, from the date of its issuance, shall be deemed a personal debt against the owner(s) and shall also be a lien on the property until paid. The special tax bill shall be registered in the office of the director of the finance department of the city. Nothing herein shall prevent a contractor from obtaining a mechanic's lien for work done pursuant to a contract with the city pursuant to this article, and collecting on such lien as otherwise authorized by law.
- (2) *Payments Made Due.* At the written request of the taxpayer delivered to the city clerk, a tax bill issued pursuant to subsection (1) may be paid in ten (10) equal annual installments, which installment with interest thereon to date on the unpaid balance shall be due annually on the anniversary of the date of issuance of the bill. Interest shall be at the rate of eight (8) percent per annum on the unpaid balance of the special tax bill computed from the date of issuance. If any annual payment of principal or interest shall not be paid within thirty (30) days of its due date, the entire remaining balance of the tax bill shall immediately become due and payable. If the request for annual payments is not made prior to the time the director shall certify the cost of the work to the city clerk, the tax bill shall be payable in sixty (60) days from its date of issuance with interest thereon at eight (8) percent per annum until paid.

Sec. 22-216. Insurance proceeds.

If there are proceeds of any insurance policy based upon a covered claim payment made for damage or loss to a building or other structure caused by or arising out of any fire, explosion, or other casualty loss, the following shall govern the procedure for the payment of a portion of the insurance proceeds. This Section shall apply only to a covered claim payment that is in excess of fifty percent (50%) of the face value of the policy covering a building or other structure:

- (1) The insurer shall withhold twenty-five percent (25%) of the covered claim payment, and shall pay such moneys to the city to deposit into an interest-bearing account. Any named mortgagee on the insurance policy shall maintain priority over any obligation under the order or ordinance;

- (2) The city shall release the proceeds and any interest that have accrued on such proceeds received under subdivision (1) of this Section to the insured or as the terms of the policy and endorsements thereto provide within thirty days (30) after receipt of such insurance moneys, unless the city has issued a Notice and Order, and is proceeding in accordance therewith pursuant to this article. If the city has issued such Notice and Order (and is proceeding therewith), all moneys in excess of that necessary to comply with such Notice and Order for the removal, securing, repair, and cleanup of the building or structure, and the lot on which it is located, less salvage value, shall be paid to the insured;
- (3) If there are no proceeds of any insurance policy as set forth in this Section, at the request of the taxpayer, the tax bill may be paid in accordance with Section 22-215;
- (4) This Section shall apply to fire, explosion, or other casualty loss claims arising on all buildings and structures;
- (5) This Section does not make the city a party to any insurance contract, and the insurer is not liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

Sec. 22-217. Board of Appeals

The Board of Appeals was created pursuant to the authority of certain International Code Council codes, as adopted by Chapter 22 of the Municipal Code. Such board has the authority to hear and decide appeals, as described in this article, as well as the authority described anywhere else in this code. If a director or inspector is involved with issuance of an Order of Abatement that is subject to appeal, such director or inspector shall not serve on the Board of Appeals when such Order is appealed.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED.

- Section 2: This ordinance shall be in full force and effect from and after its passage and approval.
- Section 3: That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.
- Section 4: That the repeal of any ordinance or parts of an ordinance by this Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding under or by virtue of the repealed ordinance.
- Section 5: That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE PERTAINING TO NUISANCES.

FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: PLANNING & DEVELOPMENT

CITY ADMINISTRATOR RECOMMENDATION:

Recommend postponement of the bill to January 25, 2011.

STAFF REPORT:

Presently, the specific codes used by the Code Enforcement department are found in different sections of the Branson Municipal Code, the International Property Maintenance Code, and the International Building Code. The main purpose of this ordinance is to consolidate all current aspects of our nuisance enforcement codes into one document, the Branson Municipal Code, and to expand on these codes to add clarity. The ordinance was also written with a logical flow of information and a consistent layout that improves its user-friendliness. In addition, our increased enforcement activities have brought about some code additions and changes; these include:

- Limiting the maximum size of vehicles parked at residences to those with a maximum of 2 axles.
- Added enforcement actions for dead or dying trees that are a potential safety hazard.
- Not allowing any inoperable, unlicensed or dismantled vehicles on a property (currently allow one).

The ordinance was reviewed by the Tri-Lakes Board of Realtors and their attorney on several occasions with their recommendations incorporated. A detailed legal review of this ordinance, with changes and additions, was provided by Betsy Blake, from the consulting firm of Williams & Campo, P.C.

UPDATE:

Since the December 14, 2010 meeting, staff has been looking at possible changes based on input from the Board and from the public. At this point, discussion is needed with the Board for further direction. The changes suggested would provide a more practical enforcement approach and clarify the intent of the nuisance code, and are as follows:

- Remove "unlicensed" from the definition of inoperable vehicles and limit to 7 consecutive days, the time a dismantled vehicle can be on a residential property.
- Remove "vehicle storage" trailers from the definition of nuisance in commercial areas.
- Modify the "portable storage unit" residential requirements to limit them to 30 consecutive days in a 12-month period.

- Remove vehicle surface parking requirement from the front, side and back yard unless it causes damage to the property.
- Remove screening requirements for the rear yard for boats, RV's and trailers.
- Remove the phrase "half the width of the platted alley . . . " from the definition of rear yard.

Staff suggests postponing the final reading of this bill until January 25th or later to allow time for any final changes to be made based on discussion at this meeting, and final changes to be codified.

If there are no other modifications to the other ordinances presented for second reading, those can be approved at the January 11, 2011 meeting. Only the nuisance ordinance would require a postponement.


STAFF RECOMMENDATION:

Staff recommends postponement of the bill.

PROPOSED MOTION:

Move to postpone the bill to January 25, 2011.

FINANCIAL REVIEW: N/A

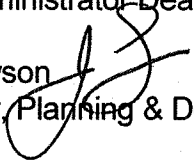


ATTACHED INFORMATION: Memo

Memo

DATE: January 4, 2011

TO: Mayor Raeanne Presley
Board of Aldermen
City Administrator Dean Kruithof

FROM: Jim Lawson 
Director, Planning & Development

SUBJ: Proposed Nuisance Ordinance

Staff has reviewed the comments made on the Dangerous Building and Nuisance ordinances at the December 14, 2010, public hearing. Listed below are some recommendations for changes to the Nuisance draft ordinance. We do not see any changes necessary in the Dangerous Building draft ordinance.

1. Sec. 58-293. Definitions.

Current: *Inoperable Vehicle* means any vehicle including, but not limited to any vehicle that is unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Issue: Inclusion of the word "unlicensed" would disallow vehicles that are in good repair but simply not licensed at that particular time or for collectable vehicles that are not being driven.

Proposed: *Inoperable Vehicle* means any **self-propelled** vehicle including, but not limited to any vehicle that is unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

2. Sec. 58-294. Nuisances; general.

Current: (5) *Vehicles*: The following conditions shall constitute nuisances for purposes of this section:

- a. Any vehicle or trailer used primarily for the storage of materials, goods, or equipment, other than those items considered to be a part of the vehicle or trailer or to be transported by the vehicle or trailer in the normal course of use of the vehicle or trailer.

Issue: Many businesses utilize trailers for the storage of product and other items. These trailers are typically parked behind their business establishment on a paved surface. Some of these trailers aren't moved, while others do

move their trailers as part of their business function. Such trailers range from small flatbed trailers to small box-style trailers to semi-truck trailers. The concern is that this code would disallow all trailers from being parked on a property.

Proposed: Delete this paragraph.

~~a. Any vehicle or trailer used primarily for the storage of materials, goods, or equipment, other than those items considered to be a part of the vehicle or trailer or to be transported by the vehicle or trailer in the normal course of use of the vehicle or trailer.~~

3. **Sec. 58-294. Nuisances; general.**

Current: (5) *Vehicles*: The following conditions shall constitute nuisances for purposes of this section:

c. Any vehicle that is parked on a surface other than a public street or driveway, which is surfaced with asphalt, concrete, stone, brick, or other similar material that is suitable for parking purposes. Gravel shall not be considered a material that is suitable for parking purposes under the terms of the Code.

Issue: Gravel as a parking surface exists in many areas in the city, and if this ordinance has no grandfather (legal non-conforming) clause, these gravel parking areas would be in violation of the ordinance. There also were inputs that gravel is an acceptable parking surface and it is permeable and relatively inexpensive.

Proposed: (5) *Vehicles*: The following conditions shall constitute nuisances for purposes of this section:

c. Any vehicle that is parked on a surface other than causing damage or degradation to the parking area or access route to the parking area, including, but not limited to, ruts in the soil, dead grass or damage to vegetation, or where such parked vehicle has been abandoned as evidenced by the lack of proper maintenance to the area where the vehicle is parked. a public street or driveway, which is surfaced with a asphalt, concrete, stone, brick, or other similar material that is suitable for parking purposes. Gravel shall not be considered a material that is suitable for parking purposes under the terms of the Code.

4. **Sec. 58-294. Nuisances; general.**

(5) *Vehicles*: The following conditions shall constitute nuisances for purposes of this section:

d. Any vehicle that is dismantled, inoperable, junked, or unlicensed, unless the vehicle is stored within an enclosed building or in a location that cannot be viewed from a ground location off the premises, or unless such vehicle is present in course of normal and lawful business operation.

1. Except that it shall not be considered a nuisance, for purposes of this article, if one such vehicle is being dismantled, repaired, stripped, or serviced on the property, provided that the work is completed within seven (7) days by the owner of the property and that the vehicle is licensed to that owner.

Issue: Current code allows one (1) dismantled, inoperable, junked, or unlicensed vehicle on a property. This proposal allows none.

Proposed: (5) *Vehicles:* The following conditions shall constitute nuisances for purposes of this section.

d. Any vehicle that is dismantled, or inoperable, ~~junked, or unlicensed~~, unless the vehicle is stored within an enclosed building ~~or in a location that cannot be viewed from a ground location off the premises, or unless such vehicle is present in course of normal and lawful business operation.~~

1. Except that it shall not be considered a nuisance, for purposes of this article, if one such vehicle is being dismantled, repaired, stripped, or serviced on the property, provided that the work is completed within seven (7) consecutive calendar days by the owner of the property and that the vehicle is licensed to that owner.

5. Sec. 58-294. Nuisances; general.

(5) *Vehicles:* The following conditions shall constitute nuisances for purposes of this section:

f. Boats, RVs, and trailers, except where such items are parked in the rear yard, and screened from adjoining properties and public/private streets.

Issue: What is to be used to provide the screening?

Proposed: Delete this paragraph.

~~f. Boats, RVs, and trailers, except where such items are parked in the rear yard, and screened from adjoining properties and public/private streets.~~

6. Sec. 58-294. Nuisances; general.

(7) *Portable Storage Units.* Any portable storage units that remains on the premises for more than thirty (30) calendar days is declared a nuisance.

Issue: The specified thirty (30) day time limit may be too short for certain situations.

Proposed: (7) *Portable Storage Units.* Any portable storage unit that remains on the a residential premises for more than thirty (30) consecutive calendar days in a 12 month period is declared a nuisance.

7. Sec. 58-293. Definitions.

Rear Yard means that portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot (in those locations where an alley is platted in the rear of the lots, half the width of the platted alley may be included in the rear yard) not including steps, unenclosed balconies, and unenclosed porches.

Issue: Including "half the width of the platted alley" as part of the rear yard would allow the owner / tenant to use half of the alley for the parking of an RV, boat or trailer. This would block the alley.

Proposed: *Rear Yard* means that portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot (~~in those locations where an alley is platted in the rear of the lots, half the width of the platted alley may be included in the rear yard~~) **but** not including steps, unenclosed balconies, and unenclosed porches.

AN ORDINANCE AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE PERTAINING TO NUISANCES.

WHEREAS, a need has been determined for regulations and procedures for the upkeep of properties within the city of Branson to provide for the health, safety and welfare of the community; and

WHEREAS, the Board of Aldermen wishes to amend the Branson Municipal Code as follows:

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, THE FOLLOWING:

Section 1: That Chapter 58 – *Offenses and Miscellaneous Provisions*, Article VIII – *Nuisances* – Section 58-293 – *Definitions*, Section 58-294 – *Nuisances; general* and Section 58-297 – *Enforcement and Abatement* and Section 58-298 – *This Code to Control in Event of Conflict* of the Branson Municipal Code is added as follows:

Sec. 58-293. Definitions.

For the purpose of this article, certain terms and words are hereby defined as follows. Any word not defined herein or in the code shall have its ordinary and usual meaning.

Abatement is the act of eliminating or terminating a condition.

Agent means a person entrusted with another's business. A business representative, whose function is to bring about, modify, affect, accept performance of, or terminate contractual obligations between principal and third persons.

Debris means the remains of anything broken down, destroyed, or in ruins.

Director means the person appointed as the director of planning & development, and in the context of this article, unless otherwise noted, shall mean the director of planning & development or his/her designee.

Dismantled Vehicle means any vehicle missing significant body parts, including, but not limited to, hood, fender, cab, door, window glass, or trunk lid.

Graffiti means the defacing, damaging or destroying by the spraying of paint or marking of ink, chalk, dye or other similar substances on public or private buildings, structures, properties, and places without the consent of the owner.

Inoperable Vehicle means any vehicle including, but not limited to any vehicle that is unlicensed, wrecked, abandoned, in a state of disrepair, or incapable of being moved under its own power.

Junked Vehicle means any vehicle that has no resale value or use except as a source of parts or scrap.

Motor Vehicle means any self-propelled vehicle not operated exclusively upon tracks, except farm tractors and motorized bicycles.

Noxious or Toxic Odor, Dust Vapor, Fume, or Mist: Any airborne substance, whether visible or invisible and whether particulate or not, which causes nausea, vomiting, dizziness, headaches, eye or skin irritation, or other physical injury to person.

Noxious Weeds means plants, such as poison ivy, poison oak, ragweed, or other poisonous plants or plants detrimental to health, kudzu, and those weeds prohibited as per the current Missouri Department of Agriculture listing.

Person means any corporation, firm, partnership, association, organization, or other group acting as a unit, as well as individuals. It shall include an executor, administrator, trustee, receiver or other representative appointed according to applicable law. Whenever the word "person" is used in any section of this article prescribing a penalty or fine, as to partnerships or associations, the word shall include the partners or members thereof, and as to corporations, shall include the officers, agents or members thereof who are responsible for any violation of this section.

Portable Storage Unit is, in the context of this article, any structure or container used for temporary, short-term storage of residential or commercial furniture, equipment, or other materials, and that can be moved and transported by towing or carry.

Premises means a lot, plot, or parcel of land, easement or public way, including any structures thereon.

Private Property means any property within the corporate limits of the city that is not owned or controlled by a public governmental body.

Rear Yard means that portion of the yard, on the same lot with a building, between the rear building line and the rear lot line, for the full width of the lot (in those locations where an alley is platted in the rear of the lots, half the width of the platted alley may be included in the rear yard) not including steps, unenclosed balconies, and unenclosed porches.

Recreational Vehicle (RV) means any vehicle designed, constructed or substantially modified so that it may be used for the purposes of temporary housing, including therein sleeping and/or eating facilities that are either permanently attached to the vehicle or attached to a unit that is securely attached to the vehicle.

Refuse means, in the context of this article, collectively that which is garbage, trash, rubbish or debris.

Right of Way is any property owned by a public governmental body for the purposes of streets and associated public improvements, alleys sidewalks, pedestrian walkways, and the like.

Rubbish means, with the exception of garbage, combustible and non-combustible materials, paper, rags, cardboard, wood and wood shavings, rubber, leather, plastics, tree branches, yard trimmings, dead plant material, furniture, appliances, bedding, used construction materials, metal cans, metals, mineral matter, glass, crockery, and other similar materials, and includes the residue from the burning of wood, fossil fuels, and other combustible materials.

Trailer means any vehicle without motor power designed to carry property or passengers on its own structure and for being drawn by a self-propelled vehicle, including a semi-trailer or vehicle of the trailer type so designed and used in conjunction with a self-propelled vehicle that a considerable part of its own weight rests upon and is carried by the towing vehicle.

Trash means any and all materials defined as rubbish.

Unlicensed Vehicle means any vehicle that does not display a valid license and current inspection sticker, as required by the state in which the vehicle is legally registered in order to operate said vehicle upon public roads. This excludes vehicles provided for sale by an appropriately licensed seller of new or used vehicles that are stored and displayed on property so permitted for such sale.

Vegetation means any plant or plant species, taken as a whole.

Vehicle means any mechanical device on wheels, excluding motorized bicycles, vehicles propelled or drawn by horses or human power, vehicles used exclusively on fixed rails or tracks, and motorized wheelchairs operated by handicapped persons. The term "vehicle" includes, but is not limited to, commercial and non-commercial motor vehicles, dismantled vehicles, inoperable vehicles, junked vehicles, motor vehicles, recreational vehicles, trailers, and unlicensed vehicles.

Weeds, in the context of this article and unless otherwise stated, means vegetation generally recognized as wild or undesirable, whether found upon residentially or commercially zoned properties.

Yard means an open space on the same lot or property as a structure.

Sec. 58-294. Nuisances; general.

- (1) It shall be a violation of this article for any person who is the owner, agent, tenant, occupant, or other person in control of property to create, allow, or maintain a nuisance (as described herein) on such property or on public property.
- (2) Nuisances Generally: The following conditions shall constitute nuisances for purposes of this section.
 - a. Any condition or substance on public or private property that is injurious or dangerous to public health or safety.
 - b. Any condition defined as a nuisance in this article or any code adopted by the city or by the Revised Statutes and decisions of the State of Missouri.

- c. Any substance that generates, emits, or causes noxious or toxic odor, dust, vapor, fume, or mist.
 - d. Any establishment or structure that generates, emits, or causes any noxious or toxic odor, dust, vapor, fume, or mist, or condition.
 - e. Any barn or other place where animal or fowl waste collects in any manner that is not clean and sanitary, or which creates odors (offensive to a person of ordinary sensibilities) that are allowed to escape the premises.
 - f. Deposits of leaves, grass, dirt, or any other material that interfere with the proper functioning of any sanitary or storm sewer improvement.
 - g. Deposits of leaves, grass, dirt, or other materials on a public right-of-way.
 - h. Any accumulation or deposit of foul, dirty, or polluted water or liquid, including stagnant water that does or could afford harborage for the breeding of mosquitoes.
 - i. Any accumulation of material that does or could afford harborage of rats, mice, snakes, or other vermin.
 - j. Any condition or substance that may generate, transmit, or promote disease, or that may present a safety hazard to the general public.
- (3) Rubbish: Any violation of Section 46-554 of this code (as such Section may be amended from time to time) shall constitute a nuisance for purposes of this section.:
- (4) Weeds and vegetation: The following conditions shall constitute nuisances for purposes of this section:
- a. Grass, weeds, or overgrown vegetation, that exceeds seven (7) inches in height, or which otherwise obstructs the clear sight triangle as shown in the city of Branson Design Criteria for Public Improvement Projects. However, the following conditions shall not be considered a nuisance:
 - 1. All or any part of any lot or tract of land that is a natural forest, within the meaning of this code, or a woodland meadow.
 - 2. All or any part of any lot or tract of land that cannot be mowed using conventional mowing or weed removal equipment due to steepness of grade or rocky terrain, or which is otherwise devoid of improvements (other than fences or sheds).

However, unimproved land, which falls under this exception, shall be maintained in accordance with this article from the centerline of an abutting street or alley by mowing at least five (5) feet beyond the edge of the street or road surface, curb line or sidewalk, whichever is greater
 - b. Any noxious weeds.

- c. Any dead or dying tree, limb, bush or brush that constitutes a hazard to the safety of persons or of property, private or public, including a safety hazard that obstructs the line of sight of a motor vehicle driver, bicyclist, or pedestrian at a street intersection, a hazard that could interfere with the passage of motor vehicles, bicycles, or pedestrians, on any public right-of-way, or a tree that harbors insects or disease that constitutes a potential threat to other trees.
- d. Any accumulation of grass clippings, leaves, chipped brush, weeds, chipped foliage or shrub cuttings or clippings, or vegetable waste, unless contained within a composting bin located within the rear yard and at least ten (10) feet from any property line. However, in order to not be considered a nuisance herein, such composting bins shall be constructed and maintained in such a manner as to prevent the emission of a noxious odor, and such that they do not provide bedding or shelter for rats, mice, or other pests, nor be in violation of any other provisions of the code.

(5) Vehicles: The following conditions shall constitute nuisances for purposes of this section:

- a. Any vehicle or trailer used primarily for the storage of materials, goods, or equipment, other than those items considered to be a part of the vehicle or trailer or to be transported by the vehicle or trailer in the normal course of use of the vehicle or trailer.
- b. Any vehicle that is displayed for the principal purpose of sale that is either:
 - 1. Not located on a private residential driveway; or
 - 2. Not located on property that is legally licensed and permitted by the city for the sale of vehicles.
- c. Any vehicle that is parked on a surface other than a public street or driveway, which is surfaced with asphalt, concrete, stone, brick, or other similar material that is suitable for parking purposes. Gravel shall not be considered a material that is suitable for parking purposes under the terms of the Code.
- d. Any vehicle that is dismantled, inoperable, junked, or unlicensed, unless the vehicle is stored within an enclosed building or in a location that cannot be viewed from a ground location off the premises, or unless such vehicle is present in course of normal and lawful business operation.
 - 1. Except that it shall not be considered a nuisance, for purposes of this article, if one such vehicle is being dismantled, repaired, stripped, or serviced on the property, provided that the work is completed within seven (7) days by the owner of the property and that the vehicle is licensed to that owner.
- e. Any commercial vehicle having more than six (6) wheels or more than two (2) axles, except when present for the purposes of loading and unloading, and which is present for less than five (5) days.

- f. Boats, RVs, and trailers, except where such items are parked in the rear yard, and screened from adjoining properties and public/private streets.
- (6) Graffiti. Graffiti as defined in this article is declared a nuisance.
- (7) Portable Storage Units. Any portable storage units that remains on the premises for more than thirty (30) calendar days is declared a nuisance.
- (8) Open Storage. The following conditions shall constitute nuisances for purposes of this section:
- a. The open storage on residential property of items or materials other than yard furniture, neatly stacked firewood, garden or yard tools, toys, or usable building materials. However, the open storage of usable building materials is permitted on such property if the open storage is for less than thirty (30) days, the building materials are for use on such premises, the building materials are not stored against any structure, and the building materials are neatly stacked and stacked to a height not to exceed four (4) feet from ground level.
- b. Any of the following items that remain on such residential property for longer than forty-eight (48) hours, in any outside area that can be viewed from a ground location off the premises: any appliance manufactured for primarily indoor use, bedding, bottles, boxes, broken glass, cans, cardboard, cartons, furniture manufactured for primarily indoor use, jars, machine parts, motor vehicle parts, pallets, paper, plumbing fixtures, rags, scrap metal, tires, tire rims, water heaters, or any other debris.

Sec. 58-297. Enforcement and Abatement.

- A. ENFORCEMENT. The director shall be responsible for enforcement of this article.
- B. NOTICE AND ORDER. When a nuisance as described in this article exists, the director may declare a nuisance exists and give written notice to the owner, agent, tenant, occupant, or other person in control of property, and order such nuisance be removed or abated. Such notice and order must be given to the property's owner.
1. All notices and orders given pursuant to this Section shall be given by one of the following means:
- a. Personal service.
- b. Leaving them at the addressee's usual place of abode with an occupant who is over the age of fifteen (15) years.
- c. Mailing them via both regular first class mail and via certified mail, return receipt requested, postage prepaid, to the addressee. If either one (or both) of such forms of mailing is not returned, such notice shall be deemed

effective. If mail is returned due to refusal, such mailing shall be deemed effective.

When notice cannot be given by one of the means outlined above, then such notice shall be posted on or about the premises described in the notice.

There shall be a rebuttable presumption that any notice sent via regular mail pursuant to this article is received within two business days of its mailing. There shall also be a rebuttable presumption that any notice posted on the premises is received at the end of twenty-four (24) hours after the posting thereof.

If none of those above-stated methods is successful, the director may cause such notice and removal order to be published in a newspaper of general circulation for two consecutive weeks.

2. Such notice and removal order shall, at a minimum:
 - a. Declare that a nuisance exists;
 - b. Describe the condition that constitutes such nuisance;
 - c. Order the removal or abatement of such condition not less than seven (7) days from the date of receipt of such notice;
 - d. Describe the location of the property where the nuisance exists (using the street address rather than a legal description when reasonably possible to do so);
 - e. State that if the owner or occupant fails to begin removing or abating the nuisance within the time allowed or pursue the removal or abatement of such nuisance without unnecessary delay then the director may cause the condition that constitutes the nuisance to be removed or abated and that the cost of such removal or abatement may be included in a special tax bill or added to the annual real estate tax bill for the property and collected in the same manner and procedure for collecting real estate taxes, and that such cost shall be a personal debt of the property owner.
 - f. State that if the owner or occupant of such property fails to begin removing or abating the nuisance within the time allowed, or upon failure to pursue the removal of such nuisance without unnecessary delay, such owner or occupant may be cited for violating this article.
 - g. State that if the addressee wishes to contest the finding of a nuisance and removal order, he/she must file a written request for appeal with the director, which must be received within seven (7) days from the date the addressee received the notice and order.

C. HEARING

1. If any owner, agent, tenant, occupant, or other person aggrieved by the director's notice and order files a written request for an appeal of such notice and order with the city attorney, which is received within seven days from the date the addressee received such notice and order, such request shall stay any administrative enforcement proceedings pursuant to this article in respect to such notice and order, until such person's appeal is disposed. Failure to file a timely and complete request for appeal shall make such notice and order final for purposes of this article.
2. Such request for appeal must state the applicant's name, mailing address, and a brief description of the applicant's basis for appeal. If the applicant is represented by an attorney, such fact shall also be noted.
3. The director shall give the requesting party reasonable notice of the date, time, and location of such hearing. Any party may be represented by counsel and all parties shall have an opportunity for a full and adequate hearing. The proceeding shall be recorded and all persons giving testimony shall do so by oath or affirmation. Any party may request additional procedures not specifically outlined herein and the director shall consider and timely rule on such requests. Any and all exhibits presented at such hearing shall be made available to adverse parties prior to the hearing.
4. The director shall preside over such hearing, and make written findings of fact based on competent and substantial evidence (as offered at said hearing) as to whether or not a nuisance (as defined by this article) exists on the property in question. If the evidence supports a finding based upon competent and substantial evidence that the conditions described in the notice and order constitute a nuisance on the property in question, the director shall issue a Final Order of Abatement, which shall include the information required to be included in any initial notice and order. The Final Order of Abatement shall be delivered, by person or mail, to each party of the hearing, or their attorney of record.
5. Appeals from the director's Final Order of Abatement shall be made pursuant to Sections 536.100 – 536.140, RSMo, and within the time period described therein. Failure to appeal within such time period shall make such Final Order of Abatement final for purposes of subsection (D).

D. ABATEMENT

1. After the director's order becomes final and if the owner, agent, tenant, occupant, or other person in control of property fails to begin removal or abatement of the nuisance in accordance with the notice and order of abatement within the time allowed, or upon failure to pursue the removal and abatement of such nuisance without unnecessary delay, the director may cause the condition that constitutes the nuisance to be removed or abated. The police department shall be notified of such removal or abatement.

2. If the director causes a nuisance to be removed or abated in accordance with this article and has sent notice and a removal order to the owner in accordance herewith, he shall certify the cost of such removal and abatement (which may include reasonable fees for the city's costs in administering this article) to the city clerk who shall cause the certified cost to be included in a special tax bill or added to the annual real estate tax bill, for the property and the certified cost shall be collected by the official collecting taxes in the same manner and procedure for collecting real estate taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid.
3. The collection of the delinquent bill shall be governed by the laws governing delinquent and back taxes. The tax bill from the date of its issuance shall be deemed a personal debt against the owner and shall also be a lien on the property until paid. In the event a lawsuit is required to enforce the tax bill, the city may charge the property owner costs of collecting the tax bill including attorney's fees.

E. WARRANT

The director may enter upon private property for inspection or for the purpose of inspecting or removing any nuisance in accordance with this article. If any person refuses to allow entry onto his/her private property, the director may obtain an administrative search warrant in accordance with this code and proceed in accordance therewith.

F. EMERGENCY ABATEMENT

When the director determines that a nuisance is an imminent threat to the life, health, or safety of the public, he shall not be required to comply with the requirements of this Section prior to abatement of such nuisance.

Section 58-298. This Code to Control in Event of Conflict.

The strictest provisions shall control in the event of conflict of codes and any provision of the adopted International Property Maintenance Code.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Section 3: That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.

Section 4: That the repeal of any ordinance or parts of an ordinance by this Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding under or by virtue of the repealed ordinance.

Section 5: That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE PERTAINING TO GRAFFITI.

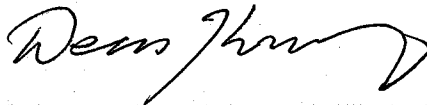
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

At one time, Branson Municipal Code contained language referencing graffiti. Through the re-codification process, this language was inadvertently dropped from the codebook. This Bill will make it a violation to deface property with graffiti.

Additionally, graffiti was also made a nuisance in the new nuisance code. This will allow the City to abate the graffiti through the process provided for a nuisance.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

AN ORDINANCE AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO GRAFFITI.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF
BRANSON, MISSOURI, THE FOLLOWING:

Section 1: That Chapter 58 – *Offenses and Miscellaneous Provisions*, Article V – *Offenses Against Property* – Section 58-157 – *Graffiti* of the Branson Municipal Code is added as follows:

Sec. 58-157. Graffiti

Graffiti means the defacing, damaging or destroying by the placement or spraying of paint, or marking of ink, chalk, dye or other similar substances on public or private buildings, structures, properties, and places, without the consent of the owner.

1. No person shall:

- (a) Apply graffiti upon walls, rocks, bridges, buildings, fences, gates, others structures, trees and other real and personal properties within the city.**
- (b) Write, paint or draw upon any wall, rock, bridge, building, fence, gate, other structure, tree, or other real or personal property, any inscription, figure, or mark of the type commonly known and referred to as graffiti.**

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS [BRACKETE, STRICKEN] HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2010.

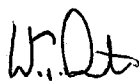
Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 34 OF THE BRANSON MUNICIPAL CODE PERTAINING TO ADMINISTRATIVE SEARCH WARRANTS.

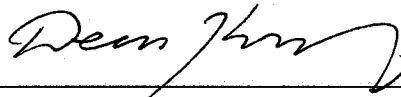
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

In order to enforce code by inspection of private property, a code provision is needed to provide for administrative search warrants. Missouri statutes provides authority for fourth class cities to enter and inspect private property for certain inspection and abatement purposes. The addition of this code will allow enforcement of housing, zoning, building, health, safety and fire codes for non-consensual searches of private property.

It creates an application process, requiring a probable cause statement, detailed information concerning the premises to be searched, specific date the search is to be performed and supporting facts. After holding a hearing and upon finding of probable cause, the Municipal Judge is given authority to issue an administrative search warrant. The required contents of the warrant is outlined and code states the warrant must be served within 10 days of the application.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A 

ATTACHED INFORMATION:

AN ORDINANCE AMENDING CHAPTER 34 OF THE BRANSON MUNICIPAL CODE PERTAINING TO ADMINISTRATIVE SEARCH WARRANTS.

WHEREAS, Chapters 71, 79, and 89 of the Revised Statutes of the State of Missouri provide authority for fourth class cities to enter and inspect private property for certain inspection and abatement purposes; and

WHEREAS, the United States Supreme Court, in *Camara v. City and County of San Francisco*, 387 U.S. 523 (1967) ruled that administrative searches without consent by an owner municipal health and safety inspectors constitute significant intrusions upon interests protected by the Fourth Amendment of the United States Constitution; and

WHEREAS, the Missouri Supreme Court, in *Frech v. City of Columbia*, 693 S.W.2d 813 (1985) ruled that the enactment of municipal code to effect an Administrative Search Warrant did not come into conflict with Missouri state statutes, nor with the Court Operating Rules established by the Missouri Supreme Court; and

WHEREAS, the City of Branson has no Code Provisions to request such Search Warrants from its Municipal Court; and

WHEREAS, in order to enforce its housing, zoning, building, health, safety, and fire codes, it is necessary to seek out a court order to provide for a non-consensual search of private property.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, THE FOLLOWING:

Section 1: That Chapter 34 – *Courts*, Article II – *Municipal Court*, Division I – *Generally* Section 34-45 – *Administrative Search Warrants* and Division 2. – *Judge*, Section 34-64 – *Powers and duties* of the Branson Municipal Code is amended as follows:

Sec. 34-45. Administrative Search Warrant.

- 1. Scope and Application of Warrant - Upon application to the Branson Municipal Court, and a showing of probable cause, the court may approve the issuance of an administrative search warrant allowing inspection of private property in order to enforce the city's housing, zoning, building, health, safety, and fire codes in order to abate such conditions.**
- 2. Application for Warrant**
 - a. Any individual responsible for enforcement of the city's regulatory code provisions concerning property may motion the court through the City Attorney for permission to enter said property in order to enforce the city's housing, zoning, health, safety, and fire codes, and to abate conditions that are in violation of such codes.**

b. The Warrant Application shall:

- 1. Be in writing and filed with the Municipal Court.**
- 2. Include a statement of probable cause, detailing the actual or suspected property conditions that justify entry.**
- 3. Identify the property or place to be entered, searched, inspected, or seized so that it is of sufficient detail and particularity that the court and any officer executing the warrant could readily ascertain it. The request shall include that said property is within the city limits.**
- 4. Include the date and time that entry into said property was refused, and who was present when the refusal took place. If no responsible person could be located, the application must list all efforts made to request consent.**
- 5. State specifically what sections of the city's housing, zoning, building, health, safety, and fire codes are believed to be violated by the property in question and are sought to be enforced.**
- 6. Include copies of the code in question.**
- 7. State specifically the time and date requested to perform search; which shall be during daylight hours.**
- 8. Be verified by oath or affirmation of the applicant, and be signed by the applicant and the city attorney.**
- 9. State the time and date of making the application.**
- 10. State facts sufficient to show probable cause for the issuance of an administrative search warrant in accordance with the procedure outlined in this Section to warrant:**
 - a. Search or inspection for violations of an ordinance or code section specified in the application.**
 - b. Entry or seizure that is authorized and necessary to enforce code section specified in the application.**
- 11. Where the application requests entry to seize property, such application shall also state facts sufficient to show that any required due process has been afforded prior to the entry or seizure.**
- 12. Such application may also be supplemented by written affidavit**

3. Issuance of Warrant - Hearing and Procedure.

- a. The municipal judge shall hold a non-adversary hearing to determine whether probable cause exists to inspect or search for violations of any housing, zoning, building, health, safety, and fire codes, or to enforce any such code.**

- b. In doing so, the municipal judge shall determine whether the action to be taken by the officer is reasonable in light of the facts stated. The municipal judge shall consider the goals of the ordinance or code section sought to be enforced and such other factors as may be appropriate, including but not limited to the physical condition of the specified property, the age and nature of the property, the condition of the area in which the property is located, the known violation of any relevant ordinances or code sections and the passage of time since the property's last inspection. The standard for issuing a warrant need not be limited to actual knowledge of an existing violation of an ordinance or code section.
- c. If it appears from the application and any supporting affidavit that there is probable cause to inspect or search for violations of any relevant code section, or to enforce any such code section, a search warrant shall immediately be issued.
- d. The warrant shall issue in the form of an original and two (2) copies. The application, any supporting affidavit, and one (1) copy of the administrative search warrant (as issued) shall be retained in the municipal court records.

4. Contents of Warrant:

The Warrant shall:

- a. Be in writing and in the name of the city.
- b. Be directed to the police officer who will accompany and execute the warrant with the code official.
- c. State the time and date that the warrant was issued.
- d. Identify the location or property in sufficient detail and particularity that the officer executing the warrant can readily ascertain it.
- e. Command that the described property or places be searched or entered upon, and that any evidence of any city code violations found therein or thereon, or any property seized pursuant thereto, or a description of such property seized, be returned within ten (10) days after filing of the application to the municipal judge who issued the warrant, or his/her municipal court clerk, so such evidence, property, or description of such property may be dealt with according to law.
- f. Include the code sought to be enforced along with a copy therewith. The warrant shall include a return and inventory form for the applicant to return to the court after the completion of the search.
- g. Specify the service conditions of the warrant, including that service to take place during daylight hours and within ten (10) days of application.
- h. Be signed by the municipal judge, with his/her office title indicated.

5. Execution and Return

- a. The warrant shall be executed by a city police officer, to be accompanied by the applicant officer, upon the property in question as soon as practicable and in the most reasonable and practicable manner possible.
 - b. A copy of the warrant shall be provided to the owner or occupant of the property entered, and, if no owner or occupant can be reached, the warrant shall be conspicuously placed upon the property in lieu of personal service.
 - c. If any property is seized incident to the entry, the officer shall prepare and give the person an itemized receipt for the property in question. If no such person is present, the receipt shall be left in a conspicuous place. Copies of this receipt shall be forwarded to the court clerk of the municipal court, as well as the city attorney.
 - d. The disposition of property seized shall be in accordance with the provisions of this section and taken as evidence. Such property shall be disposed of pursuant to Section 542.301, RSMo and relevant provisions of this code.
 - e. The officer may summon as many persons as he deems necessary to assist in executing the warrant.
 - f. The warrant shall expire if not acted upon within ten (10) days of its application.
 - g. After execution, a return signed by the officer executing the warrant shall be delivered to the municipal court and shall include the following:
 1. The time and place of execution, including upon whom service was made.
 2. A report of the search and any seizure accompanying the warrant. This shall include an itemized receipt of any items seized, and copies of any photographs or recordings made.
 3. The return shall be made immediately after the warrant execution.
 4. The court shall provide, upon written request made in person, a copy of the return to the owner of the property entered or seized.
- 6. Conflicts – The provisions of this chapter shall prevail over any conflicts between it and any International Code Council regulations adopted by the city.**

Sec. 34-64. Powers and duties.

The municipal judge shall be a conservator of the peace. He/she shall keep a docket in which he/she shall enter every case commenced before him/her and the proceedings therein and he/she shall keep such other records as required. Such docket and records shall be records of the circuit court. The municipal judge shall deliver such docket and records and all books and papers

pertaining to his/her office to his/her successor in office or the presiding judge of the circuit. The municipal judge shall have the power to administer oaths and enforce due obedience to all orders, rules and judgments made by him/her, and may fine or imprison for contempt committed before such judge while holding court, in the same manner and to the same extent as a circuit judge. **The municipal judge is given the authority to issue administrative search warrants as provided for in this chapter.**

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS [~~BRACKETE, STRICKEN~~] HAS BEEN REMOVED.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, THE FOLLOWING:

- Section 2: This ordinance shall be in full force and effective January 1, 2011.
- Section 3: That all ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed.
- Section 4: That the repeal of any ordinance or parts of an ordinance by this Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding under or by virtue of the repealed ordinance.
- Section 5: That should any section, sentence or clause of this Ordinance be declared invalid or unconstitutional, such declaration shall not affect the validity of the remaining sections, sentences, or clauses.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE PERTAINING TO OFFENSES AGAINST PROPERTY.

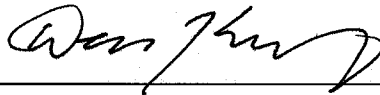
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

After the addition of the proposed code pertaining to dangerous buildings, nuisances, graffiti and administrative search warrants a review of the entire codebook was made. Several other sections of the codebook would be affected by the addition of the proposed code change. These changes are reflected in code amendments in Bill No. 3384 through 3890. The following is a synopsis of those changes:

Bill No. 3884 – The deleted language is no longer needed and is now covered under nuisances. Section 58-292 is being moved out this article in order to add the new nuisances code.

Bill No. 3885 – This changes the liquor code by making the reference to a “public” nuisance. The introduction of the new nuisances language in Chapter 58 is specifically for nuisances versus a “public” nuisance.

Bill No. 3886 – The language removed in this section is in reference to obtaining a search warrant for purposes of inspecting a business for a business license. The new administrative search warrant code would not allow an issuance of a warrant for this purpose.

Bill No. 3887 – Removes all references of weed abatement, vehicles and defacement of property out of the current code and the International Property Maintenance Code. These items are now covered under nuisances and graffiti.

Bill No. 3888 – The additional language allows for administrative search warrants to be issued for International Fire Code violations.

Bill No. 3889 – The additional language allows for administrative search warrants to be issued for Health and Sanitation purposes. The deletion of the Penalty section is a housekeeping measure. A penalty clause already exists in the front of the Chapter. New language has been inserted to clarify requirements for refuse containers. This is needed as part of the nuisances code. Garbage is declared a nuisance in the new nuisances code and abatement of garage is then done through the nuisances process.

Bill No. 3890 – The deleted code is no longer needed in this section. It's addressed in the new nuisances code.

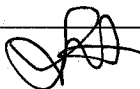
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A

A handwritten signature in black ink, appearing to be a stylized 'S' or 'B' with a flourish.

ATTACHED INFORMATION:

**AN ORDINANCE AMENDING CHAPTER 58 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO OFFENSES AGAINST PROPERTY.**

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:**

Section 1: That Chapter 58 – *Offenses and Miscellaneous Provisions*, Article V – *Offenses Against Property* – Section 58-156 – *Reserved*, Article VIII – *Nuisances*, Section 58-291 – *General prohibition* and Section 58-292 – *Throwing offensive matter on streets* of the Branson Municipal Code is amended as follows:

~~[Sec. 58-291. General prohibition.]~~

~~[Any person who shall create, erect, construct or permit to remain on any lot or part of a lot occupied by him/her any nuisance shall be in violation of this section.]~~

~~[Sec. 58-292]~~ **Sec. 58-156** Throwing offensive matter on streets.

Any person who shall in this city throw from the windows or upper story of any building into any street, or upon any sidewalk, any water, slop, rubbish or filth of any kind, or any other thing calculated to endanger the comfort or safety of persons passing along such streets or sidewalks, shall be in violation of this section.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS ~~[BRACKETE, STRICKEN]~~ HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 10 OF THE BRANSON MUNICIPAL CODE PERTAINING TO PUBLIC NUISANCES.

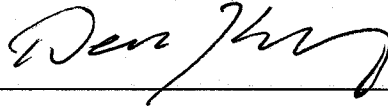
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

See Staff Report for Bill No. 3884.

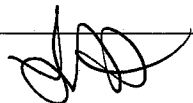
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

AN ORDINANCE AMENDING CHAPTER 10 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO PUBLIC NUISANCES.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:

Section 1: That Chapter 10 – *Alcoholic Beverages*, Article VIII – *General Provisions* – Section 10-82 – *Public Nuisances Prohibited* and Section 10-83 – *Enforcement of nuisance regulations* of the Branson Municipal Code is amended as follows:

Sec. 10-82. Public nuisances prohibited.

No person shall permit a public nuisance to exist involving intoxicating liquor, beer or wine on their property. **The city attorney is directed to file injunctions in the event of a public nuisance in matters involving alcoholic beverages on the premises of a licensed person or unlicensed property owner seeking to enjoin said nuisance. With respect to a licensee, a finding that such condition is a public nuisance shall result in the revocation of the license.**

~~[Sec. 10-83. Enforcement of nuisance regulations.]~~

~~[The city attorney is directed to file injunctions in the event of a nuisance on the premises of a licensed person or unlicensed property owner. With respect to a licensee, a finding that such condition is a nuisance shall result in the revocation of the license.]~~

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS ~~[BRACKETE, STRICKEN]~~ HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 26 OF THE BRANSON MUNICIPAL CODE PERTAINING TO INSPECTIONS.

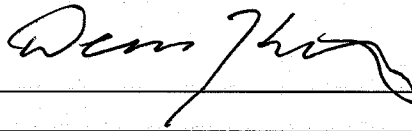
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

See Staff Report for Bill No. 3884.

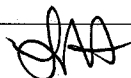
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

AN ORDINANCE AMENDING CHAPTER 26 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO INSPECTIONS.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:

Section 1: That Chapter 26 – *Businesses*, Article II – *Licenses* – Section 26-32 – *General provisions*
of the Branson Municipal Code is amended as follows:

Sec. 26-32. General provisions.

(o) *Inspections*. Any business in the city may be inspected by city officers and employees authorized to enforce provisions of ordinances relating to that business. In the absence of an emergency and in the absence of sound reasons whereby an inspection cannot be made during regular business hours, inspections shall be made during regular business hours. Immediately upon arriving at the place of business for the purpose of making an inspection, the city officer or employee making the inspection shall identify himself/herself and shall state that the purpose of the visit is to make an inspection. No person having control of any business premises shall refuse to permit a city officer or employee to enter for the purpose of making an inspection. ~~[If entry is refused, the city officer or employee shall leave and seek a search warrant, or other appropriate court order, to gain entry.]~~

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS ~~[BRACKETE, STRICKEN]~~ HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 22 OF THE BRANSON MUNICIPAL CODE PERTAINING TO INTERNATIONAL PROPERTY MAINTENANCE CODE.

FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

See Staff Report for Bill No. 3884.

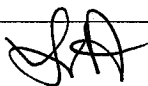
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

**AN ORDINANCE AMENDING CHAPTER 22 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO INTERNATIONAL PROPERTY MAINTENANCE CODE.**

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:**

Section 1: That Chapter 22 – *Buildings and Building Regulations*, Article VII – *Property Maintenance Code* – Section 22-182 – *Amendments to International Property Maintenance Code* of the Branson Municipal Code is amended as follows:

Sec. 22-182. Amendments to International Property Maintenance Code.

The International Property Maintenance Code 2009 is amended and revised in the following respects:

Delete in its entirety Section 302.4 Weed Abatement.

~~[Section 302.4: Weed Abatement:]~~

~~[1. Definitions:]~~

~~[a. Developed property shall mean any lot or parcel of land upon which has been erected or placed any house, trailer, shed, tower, or structure of any type, excluding fences.]~~

~~[b. Noxious weeds include such plants as poison ivy, poison oak, ragweed, or other poisonous plants, or plants detrimental to health, kudzu, and those noxious and prohibited weeds as per the current Missouri Department of Agriculture listing.]~~

~~[c. The terms lot, property, tract, land and acreage shall mean all privately owned real property including all sidewalks, easements, alleys, streets, drainage ditches (natural or man-made), bridges, tunnels, rights-of-way, parkways, or other easements running through or across such property, including planted medians. Exception, the city may maintain divided major arterials with planted medians pursuant to written agreement with private property owner(s).]~~

~~[d. All other words used here related to botanical constituents have meanings as elaborated in the landscape ordinance.]~~

~~[2. Cutting and removal of overgrown vegetation and noxious weeds. It shall be unlawful for any owner, lessee, occupant or executor of any lot or land or any part thereof in the City of Branson, Missouri, to permit or maintain on any such lot or land, any overgrown vegetation which is seven inches or more in height, unless exempted by the provisions of subsection 4, or any accumulation of dead weeds, grass or brush. It shall also be unlawful for any such person or persons to cause, suffer or allow noxious weeds to grow on any such lot or land in such manner that any part of such noxious weed shall extend upon, overhang or border any public place or allow seed, pollen or other poisonous particles or emanations there from to~~

~~be carried through the air into any public place. The growth of such overgrown vegetation and noxious weeds in violation of this section shall be and hereby is declared to be a nuisance.]~~

~~[3. *Notice of violation.* Every such owner, lessee, occupant or executor shall begin removing the nuisance within seven days from receipt of notification that the nuisance has been ordered removed, either mailed or hand delivered, or posted on the premises.]~~

~~[4. *Exceptions.*~~

~~[a. All or any part of any lot or tract of land which is a natural forest within the meaning of Section 66-219 of the Code, or woodland meadow, except to meet the minimum standards of subsection 4(e).]~~

~~[b. All or any part of any lot or tract of land which cannot be mowed by conventional mowing equipment or weed eaters because of the steepness of the grade and rocky terrain, except to meet the minimum standards of subsection 4(e).]~~

~~[c. Any undeveloped lot or tract of land of more than three acres, except to meet the minimum standards of subsection 4(e).]~~

~~[d. Any undeveloped lot or tract of land of three acres or less, which is contiguous on all sides to undeveloped property of more than three acres, except to meet the minimum standards of subsection 4(e).]~~

~~[e. *Minimum standards.* When excepted in subsections 4.a, 4.b, 4.c or 4.d above, all lots and acreage shall, as a minimum, be maintained from the centerline of the abutting street or alley by:]~~

~~[i. Mowing at least five feet beyond the edge of the street or alley surface, curb line or sidewalk, whichever is the greater; and]~~

~~[ii. Mowing and removing all overhanging vegetation within the intersection clear sight triangle as shown in the City of Branson Design Criteria for Public Improvement Projects.]~~

~~[5. *Enforcement.* If the provisions of the foregoing sections are not complied with, the city may exercise either or both of the following enforcement procedures:]~~

~~[a. *City may do work.* In the event that the overgrown vegetation or noxious weeds are not cut and removed within seven days after receipt of notice, the code official or other designated official may cause the same to be cut and removed and shall certify the cost of the same to the city clerk. The city clerk shall cause a special tax bill therefore against the property to be prepared and to be collected by the collector, with other taxes assessed against the property. The tax bill from the date of its issuance shall be a first lien on the property until paid and shall be prima facie evidence of the recitals therein and of its validity and no mere clerical error or informality in the same, or in the proceedings leading up to the issuance, shall be a defense thereto. Each special tax bill shall be issued by the city clerk and delivered to the collector on or before the first day of June of each year. Such bills, if not paid when due, shall bear interest at the rate of eight percent per annum. The issuance of such seven day notice is not required as a prerequisite to the issuance of a citation pursuant to subsection 5.b.]~~

~~[b. *Summons to municipal court.* Any person who shall neglect to cut and remove overgrown vegetation or noxious weeds as directed in this section, or who shall fail, neglect or refuse to comply with the provisions of any notice herein provided or who shall violate any of the provisions of this section or who shall resist or obstruct the code official or other representative of the City of Branson, Missouri, in the cutting and removal of overgrown vegetation or noxious weeds shall, upon conviction thereof, be subject to the penalties of section 1-11.]~~

Delete in its entirety Section 302.8 Motor Vehicles.

~~[*Section 302.8 Motor Vehicles.* Except as provided for in other regulations, not more than one currently unlicensed, unregistered or uninspected vehicle shall be parked, kept or stored on any premises, and no vehicle shall at any time be in a state of major disassembly, disrepair, or in the process of being stripped or dismantled.]~~

~~[*Exception:* A vehicle of any type is permitted to undergo major overhaul, including bodywork, provided that such work is performed inside a structure or similarly enclosed area designed and approved for such purposes.]~~

Delete in its entirety Section 302.9 Defacement of property.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS [BRACKETED, STRICKEN] HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 38 OF THE BRANSON MUNICIPAL CODE PERTAINING TO INTERNATIONAL FIRE CODE.

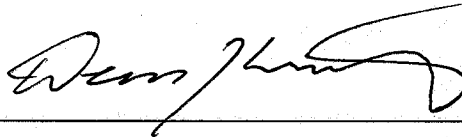
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

See Staff Report for Bill No. 3884.

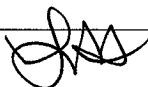
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

BILL NO. 3888

ORDINANCE NO. _____

**AN ORDINANCE AMENDING CHAPTER 38 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO INTERNATIONAL FIRE CODE.**

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:**

Section 1: That Chapter 38 – *Fire Prevention and Protection*, Article III – *Fire Prevention Code* –
Section 38-62 – *Amendments to International Fire Code* of the Branson Municipal Code
is amended as follows:

Sec. 38-62. Amendments to International Fire Code.

The code adopted by section 38-61 is hereby amended by substituting the following sections or
portions of sections for those sections or portions of sections with corresponding numbers of the
International Fire Code, 2003, or where there is no corresponding section in the code the following
sections shall be enacted as additions to the code:

101.1. Insert: "City of Branson".

104.3.1.1 Search Warrant. A search warrant may be issued by the judge of the Municipal Court
of the City of Branson, upon application by the fire official, and upon a showing of probable
cause to search for and seize, or photograph, copy or record any evidence of a violation of this
fire code **under the provisions in Chapter 34.**

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE
WHICH IS [~~BRACKETE, STRICKEN~~] HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2010.

Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson,
Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:



Lisa K. Westfall
City Clerk

William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 46 OF THE BRANSON MUNICIPAL CODE PERTAINING TO PUBLIC HEALTH AND SANITATION.

FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

See Staff Report for Bill No. 3884.

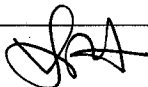
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

**AN ORDINANCE AMENDING CHAPTER 46 OF THE BRANSON MUNICIPAL CODE
PERTAINING TO PUBLIC HEALTH AND SANITATION.**

**NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, THE FOLLOWING:**

Section 1: That Chapter 46 – *Health and Sanitation*, Article II – *Public Health and Sanitation Department* – Section 46-34 – *Right to ingress and egress*, Section 46-41 – *Penalty; additional remedies*, Section 46-552 – *Penalty* and Section 46-555 – *Containers* of the Branson Municipal Code is amended as follows:

Sec. 46-34. Right of entry of director and employees; entry without warrant.

(a) *Right to ingress and egress.* In carrying out the duties mentioned in this article, the director of the department of public health and sanitation, or his/her employees, shall have the right to ingress and egress in accordance with the Constitution of the United States of America, the state, all statutes and laws made and provided, and all other ordinances of this city, and shall have the right to a warrant for entry where such entry is or would be reasonable and necessary for the preservation of health and the prevention of disease or harm to the people.

(b) *Right to enter certain establishments without warrant.* In such places as the general public would be normally permitted, and the kitchen and storage areas of all food handling establishments licensed to do business in this city, the director and his/her employees have the right to enter without warrant. If the owner or manager does not permit entry under those conditions for reasonable inspection, then and in that event a hearing will be called and a warrant obtained for entry and inspection of the premises, **under the administrative search warrant provisions in Chapter 34.** ~~[or the matter may be referred to the city attorney for action under nuisance ordinances.]~~

Sec. 46-41. Penalty; additional remedies.

Upon conviction of any violation of this article, there shall be imposed upon the violator a fine or imprisonment as set out in section 1-11 of this Code. In addition thereto, upon the application of the department of health, the city attorney is authorized to file, in the circuit court of the county, appropriate injunctive proceedings in order to terminate ~~[any nuisance detrimental to or a]~~ danger to public health.

~~[Sec. 46-552. Penalty.]~~

~~[Any person violating any of the provisions of this division shall be deemed guilty of an ordinance violation and shall be punished upon conviction pursuant to section 1-11 of this Code.]~~

Sec. 46-555. Containers.

- (a) The occupant of every dwelling unit and of every institutional, commercial, business, industrial or agricultural establishment within the corporate limits of the city shall provide sufficient and adequate containers for the storage of all solid waste, and maintain such containers in good repair, and the area surrounding them in a clean, neat and sanitary condition, at all times.
- (b) The containers and the area around them shall be maintained rodent-proof and free of rodents. Such refuse containers shall be leak-proof, waterproof, and fitted with a lid designed to reasonably prevent the entry of birds and animals, and to prevent the dispersal of refuse onto other properties, both private and public, by wind, water or other reason.
- (c) Containers to be manually lifted shall not exceed 35 gallons in capacity nor weigh more than 65 pounds when full. Waste containers shall be placed at the curb on the day of collection and before such collection. Items which the city or the service does not handle and as set forth in the published rules and regulations shall be safely disposed of by the inhabitants in accordance with the law. Sturdy plastic trash bags, as manufactured for the containment of refuse, may be used as secondary containment and be limited in use to non-food, animal or vegetable waste so as to not attract animals or fowl, and only as permitted by the waste removal service. Where rubbish, such as leaves, grass clippings, tree trimmings, brush, and the like, which cannot be stored in approved refuse containers because of bulk or weight, such rubbish may be temporarily stored without the use of such containers provided it is neatly stacked and confined, placed so that it does not present a safety hazard, and secured so as to prevent their dispersal upon the premises served, upon adjacent premises, and upon public property.
- (d) Garbage or rubbish generated by a multi-residential complex with four (4) or more dwelling units, or garbage and rubbish generated by commercial properties must: (1) be stored in dumpsters that are leak-proof and fitted with lids designed to prevent the entry of birds and animals; and (2) comply with applicable size, weight, and accessibility requirements of the waste removal service.
- (e) Portable refuse containers (which are containers that can be moved without the use of special machinery) shall not be placed where such containers may interfere with traffic, be on public roadways or where they can cause a safety hazard.

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS ~~[BRACKETE, STRICKEN]~~ HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2010.

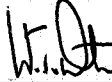
Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson,
Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

Lisa K. Westfall
City Clerk

APPROVED AS TO FORM:



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AMENDING CHAPTER 86 OF THE BRANSON MUNICIPAL CODE PERTAINING TO VEHICLES.

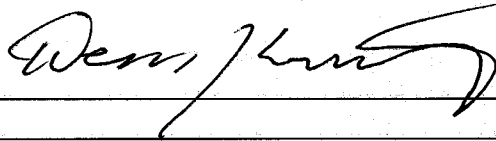
FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of this bill.



STAFF REPORT:

See Staff Report for Bill No. 3884.

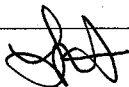
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

AN ORDINANCE AMENDING CHAPTER 86 OF THE BRANSON MUNICIPAL CODE PERTAINING TO VEHICLES.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, THE FOLLOWING:

Section 1: That Chapter 86 – *Traffic and Vehicles*, Article V – *Stopping, Standing and Parking* – Section 86-353 – *Parking of recreational vehicles*, 86-593 – *Open storage of inoperable vehicles or public safety hazards prohibited* and Sec. 86-596 – *Towing of motor vehicles on private property* of the Branson Municipal Code is amended as follows:

Sec. 86-353. [Parking] **Operating** of recreational vehicles.

~~[(a) It shall be unlawful to park, operate, or maintain a recreational vehicle, camper, mobile home or motor home upon private or public property within the city limits, except for purposes of utilizing the recreational vehicle, camper, mobile home or motor home as a mode of transportation or for storage on the owner's own property.]~~

(b) It shall be unlawful to remove or discard trash, paper waste, sewage waste, or other litter from a recreational vehicle, mobile home, camper, or motor home onto private or public property except in receptacles or containers specifically designated for such waste, litter or sewage.

(c) It shall not be a violation of this section to park a recreational vehicle, camper, mobile home, or motor home in the parking lot of a business establishment during the hours the business shall be open to the public provided such parking shall be related to the business of the on-premises establishment during the time it takes to complete that business.

(d) Any overnight parking of an occupied recreational vehicle shall be at an establishment designed for that purpose, and that offers the owner purpose built receptacles or containers for sewage, litter, and waste.

(e) It shall not be a violation of this section to park a recreational vehicle, camper, mobile home, or motor home upon areas specifically designated as camping areas with the facilities available for campers, and in designated parking spaces.

~~[Sec. 86-593. Open storage of inoperable vehicles or public safety hazards prohibited.]~~

~~[The open storage of inoperable vehicles or other vehicles deemed by the city to constitute a public safety hazard is prohibited. Nothing in this section shall apply to a vehicle which is completely enclosed within a locked building or locked fenced area and not visible from adjacent public or private property, or to any vehicle upon the property of a business licensed as a salvage, swap, or junk dealer, or towing or storage facility, so long as the business is operated in compliance with its business license and the property is in compliance with applicable zoning ordinances.]~~

~~[Sec. 86-596. Towing of motor vehicles on private property.]~~

~~[(a) The city, including the city police department, may tow motor vehicles from real property which are deemed a public safety hazard pursuant to section 86-593 or are junk, scrapped, disassembled, or otherwise harmful to the public health.]~~

~~[(b) The city shall perform such tow pursuant to the terms of section 86-597. When a city agency other than the police department authorizes a tow under this section, it shall report the tow to the police department within two hours with a crime inquiry and inspection report.]~~

NOTE: LANGUAGE WHICH IS **BOLD, UNDERLINED** HAS BEEN ADDED; LANGUAGE WHICH IS ~~[BRACKETE, STRICKEN]~~ HAS BEEN REMOVED.

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read, this first time on this _____ day of _____, 2010.


Read this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2010.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K. Westfall
City Clerk



William T. Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF F2 INDUSTRIES, LLC FOR THE PURCHASE OF POTASSIUM PERMANGANATE AND GRANULAR CHLORINE USED IN THE WATER AND WASTEWATER TREATMENT FACILITIES AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

FIRST READING: DECEMBER 14, 2010

FINAL READING: JANUARY 11, 2011

INITIATED BY: UTILITIES DEPARTMENT *ML*

CITY ADMINISTRATOR RECOMMENDATION:

Recommend denial of the bill.



STAFF REPORT:

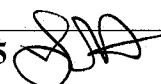
Two bids were received on October 6, 2010 for the purchase of potassium permanganate and three bids for Granular Chlorine for use in the water and wastewater treatment facilities for the period of January 1, 2011 to December 31, 2011. F2 Industries, LLC provided the lowest unit bid for these chemicals, however, F2 Industries could not provide the necessary amount of liability insurance required in the bid specification. Since all specifications were not met staff recommends the bid of F2 Industries, LLC to be declined.

STAFF RECOMMENDATION:

Staff recommends denial of the bill.

PROPOSED MOTION:

Move to approve the bill. Deny the bill.

FINANCIAL REVIEW: 620-4420-570.40-15 and 620-4320-570.40-15 

ATTACHED INFORMATION:

BILL NO. 3868

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF F2 INDUSTRIES, LLC FOR THE PURCHASE OF POTASSIUM PERMANGANATE AND GRANULAR CHLORINE USED IN THE WATER AND WASTEWATER TREATMENT FACILITIES AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson advertised for proposals for bids for chemicals used in the water and wastewater treatment facilities; and

WHEREAS, of the proposals which were received, F2 Industries, LLC has been recommended for approval by staff; and

WHEREAS, the Board of Aldermen desire to award the contract.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: That the Board of Aldermen hereby accepts the proposal of F2 Industries, LLC for the purchase of Potassium Permanganate and Granular Chlorine used in the water and wastewater treatment facilities for an amount not to exceed \$32,000.00 and authorizes the Mayor to execute the contract in the form attached as Exhibit "1".

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read this first time on _____ day of _____, 2010.

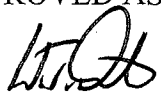
Read this second time, passed, and truly agreed to by the Board of Aldermen of the City of Branson, Missouri, on this _____ day of _____, 2010.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

CITY OF BRANSON, MISSOURI PURCHASE OF COMMODITIES CONTRACT

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between the City of Branson, Missouri (the "City") and **F2 Industries, LLC** ("Seller").

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. **Item(s) and dates of Purchase.** The City agrees to purchase and the Seller agrees to sell the following item(s) **Water/Wastewater Treatment Chemicals from a date commencing January 1, 2011 and ending December 31, 2011.**
2. **Quantities to be Purchased and Purchase Price.**
 - a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
 - b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
 - c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **Thirty Two Thousand Dollars (\$32,000.00).**
3. **Delivery and Shipment.**
 - a. The Seller is responsible for the costs of shipment.
 - b. Time is of the essence with respect to each shipment.
 - c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
 - d. Deliveries are to be made to: **Various Locations.**

4. Invoices. An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.

5. Inspection and Acceptance.

- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
- b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
- c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.

6. Warranty.

- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
- b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
- c. Any implied warranties are not altered by this written contract.
- d. Additional terms: N/A.

7. Patents. Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.

8. Bankruptcy or Insolvency. In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

9. Compliance with Applicable Laws. The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture

or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.

16. Conflicts. No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Bonds and Insurance. The Service Provider must have and maintain, at the Service Provider's expense, adequate liability insurance and bonds (if applicable) to satisfy statutory bonding requirements, of section 537.610.2 and 537.610.5 of the Missouri Revised Statutes to protect the City and the general public against any loss, damage and/or expense related to the Service Provider's performance under this contract. The insurance coverage shall include, but need not be limited to, the following coverage's in the amounts specified. Such insurance must indemnify the City to the fullest extent possible under the laws of the State of Missouri

A. General Liability Insurance with a company licensed to do business in the State of Missouri with limits of liability not less than two million five hundred nine thousand one hundred eighty-six dollars (\$2,509,186.00) per occurrence for personal injuries (including death) and property damage. The City of Branson must be named as an additional insured.

B. Automobile Liability Insurance with a company authorized to do business in the State of Missouri having limits of liability not less than two million five hundred nine thousand one hundred eighty-six dollars (\$2,509,186.00) per occurrence for personal injuries (including death). The City of Branson must be named as an additional insured.

C. Worker's Compensation Insurance with a company authorized to do business in the State of Missouri having limits not less than one million dollars (\$1,000,000.00), including occupational disease provisions for all employees of the Service Provider(s) and Sub-Service Provider(s).

D. The Service Provider will require all Sub-Service Providers to provide and maintain like insurance as set forth above unless the Service Provider's policies extend to claims made against or growing out of operations of the Sub-Service Provider.

E. Written evidence of the required insurance coverage must be submitted before or upon award of the contract. Such policy(ies) shall name the City of Branson as additionally insured. Failure to maintain required insurance coverage shall be considered a breach of this contract.

F. Service Provider understands and agrees that the insurance required under the terms of the contract in no way precludes the Service Provider from carrying

such other insurance as may be deemed necessary by the Service Provider for the operation of the Service Providers business or for the benefit of the Service Provider's employees

G. Notwithstanding any other provision of the contract to the contrary, no insurance procured by the Service Provider shall be construed to constitute a waiver of any sovereign immunity as set forth in section 537.600 through 537.650 of the Missouri Revised Statutes, or any other governmental or official immunity, which is barred under said doctrines of sovereign, governmental or official immunity available to the City, its Board of Aldermen, salaried officers or employees, nor constitute waiver of any available defense. The Service Provider shall cause all policies of insurance related to the contract to be endorsed in accord to this subparagraph.

H. If this is a multi-year contract then the Service Provider shall further require the upper limits of coverage of such policies to be adjusted on an annual basis to be at least equal to the limits of liability set forth in section 537.610.2 and 537.610.5 of the Missouri Revised Statutes as amended from time to time.

I. Insurance Certificates. It is the sole responsibility of the Service Provider to provide the City with the most up-to-date insurance certificates and to keep them current throughout the term of the contract and for any renewal periods. Any failure to maintain insurance coverage shall not relieve any contractual responsibility, obligation or liability under the contract documents. Insurance Certificates must be faxed or mailed to the address provided.

18. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

19. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

20. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this

agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller: F2 Industries, LLC

By: William Ferrell, Jr.
Name: William Ferrell, Jr.
Address: 423 E Smyrna Sq Dr
Smyrna, TN 37167
Phone: 877-828-1652
Fax: 615-459-4836

Tax ID or SSN: 62-1864838

ATTEST:

Lisa K Westfall
City Clerk

City of Branson, Missouri

By: _____
Raeanne Presley
Mayor

APPROVED AS TO FORM:

W.T. Duston
William T. Duston
City Attorney

F2 Industries, LLC
423 C Smyrna Sq. Dr.
Smyrna, TN 37167

SCOPE OF WORK

1. Purpose: To provide water/wastewater treatment chemicals for the period of January 1, 2011 through December 31, 2011 prices must remain firm through the contract period.
2. General Requirements:
 - 2.1 All gases and chemicals must be of acceptable quality.
 - 2.2 Contractor agrees to supply cylinders and containers that show evidence of a high standard of maintenance. Cylinders and containers will not show excessive rust, corrosion, scaling, or deterioration. Valves will open without undue pressure. Unused lead gaskets will be supplied with all chlorine and sulfur dioxide cylinders. Contractor agrees to pickup, immediately, any chlorine and sulfur dioxide cylinders requiring the use of a repair kit. A replacement repair kit must be returned to the City within three (3) calendar days. If, at any time the contractor fails to meet or correct problems, involving safety, product quality or equipment, the City retains the right to cancel the contract. In the event of cancellation, the City may purchase in such a manner as the Purchasing Agent may deem appropriate from the next lowest bidder meeting specifications, and the Contractor will be liable for excess costs incurred.
 - 2.3 Samples will be taken from each individual load of liquid aluminum sulfate and water treatment coagulants upon delivery. Any sample taken which indicates solids separation of the product will result in **immediate rejection** of the load. The contractor at no expense to the City shall remove any solids buildup in the City's bulk storage tanks as a result of the product supplied, other than items requiring routine maintenance.
 - 2.4 All pricing must include shipping costs* and the waiving of all cylinder, drum, and carboy deposits.
 - 2.5 All chemicals must be priced by the pound (as applicable on a dry weight or wet weight basis), or gallon according to the basis shown on the pricing page including all shipping costs* for product delivered to various plants located in Branson, MO. (* Shipping costs shall include all cost related to the delivery and unloading of product to the proper place in the various locations, additions i.e. fuel surcharges, handling fees etc. will not be accepted.) Pricing given excluding freight will be considered non-compliant and the bid will be rejected. Companies delivering and unloading product on City property using their own trucks or subcontracting through a contract hauler will supply insurance, as

required in this contract

- 2.6 The City agrees to maintain an inventory of cylinders, drums and carboy containers, where applicable, to be returned to the appropriate Contractor upon request and will assume responsibility for any lost or stolen cylinders.
- 2.7 Quantities given are estimated usage only and may be more or less depending upon demand. The City will pay only for the actual quantities ordered and received. Prices shall be as specified on the pricing page regardless of actual quantities ordered.
- 2.8 Current MSDS sheets must be furnished prior to receipt of the first shipment of product awarded in this contract.

Type	Estimated Usage
Chlorine gas in 1 ton cylinder	60,000 lbs.
Chlorine gas in 150# cylinder	8,000 lbs.
Sulfur Dioxide gas in 150# cylinder	22,000 lbs.
Aluminum Sulfate 17% (Liquid) Bulk Manufactured from virgin materials (Pricing must be on dry weight basis)	510,000 lbs.
Emulsified Polymer – Clarifloc CE-877 in 55gallon drums or approved equal through field testing by City personnel prior to bid opening.	11,000 lbs
Hydrofluosilicic Acid 23% (150# Carboys Liquid) (Pricing must be on wet weight basis)	18,000 lbs.
Hydrofluosilicic Acid 23% (Liquid Bulk) in 1,000 gal. shipments (Pricing must be on wet weight basis)	45,000 lbs.
Potassium Permanganate (330# drums)	11,000 lbs.
Liquid Chlorine Bleach 12.5% (15 gallon Carboys Liquid)	450 gal.
Granular Chlorine 65% available (100# container)	1,200 lbs.
Acid Wash C-OX, or approved equal through field testing by City personnel prior to bid opening. (Pricing must be on wet weight basis)	2,000 lbs.
Water Treatment Coagulant (Liquid Bulk) Hyperion 1090 or approved equal through field testing by City	190,000 lbs.

personnel prior to bid opening. **(Pricing must be on wet weight basis)**

D-CHLOR (dechlorination chemical) Sodium Sulfite 300 lbs.
or approved equal 3" Tablets (45# container)

PRICING PAGE

The seller must provide pricing information as specified below to provide chemicals as specified in accordance with the terms and conditions of this contract.

	Type	Estimated Usage	Unit Price
008.	Potassium Permanganate (330.69# drums)	11,000 lbs.	\$ 2.69 / lb.
010.	Granular Chlorine 65% available (100# container)	1,200 lbs.	\$ 1.35 / lb.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL APPROVING THE ANNEXATION OF 412 OWEN LANE BRANSON, MISSOURI.

FIRST READING: JANUARY 11, 2011


FINAL READING: JANUARY 25, 2011

INITIATED BY: PLANNING & DEVELOPMENT



CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

This bill approves the annexation of 412 Owen Lane. The property contains approximately 7.42 acres more or less. Staff formally presented this petition to the governing body of the City on December 14, 2010. This is the public hearing and first reading of the ordinance. The January 11, 2011, date for the public hearing is in accordance with the RSMo requirement of no less than fourteen (14) days, nor more than sixty (60) days after the receipt of the petition by the Board of Aldermen.

The property is located within the Lakeside Forest Wilderness Area and has been referred to as the Owen enclave. It was purchased on August 31, 2010, by the City of Branson and is intended to become part of the Lakeside Forest Wilderness Area. The property is bordered by hand-laid stone walls and contains a few structures including the Owen's home, a bath house and chicken coops. Since the purchase of the property, dramatic changes have occurred in large part to four Boy Scouts (Aaron Hughes, Dallin Hughes, Keaton Knudsen, and Skylar Brown) volunteers and city staff to clean up the property. As a result of everyone's efforts, visitors will be able to experience the grounds as Lyle Owen and his family were able to and enjoy a 180 degree view of Lake Taneycomo and the College of the Ozarks' property.

Staff has reviewed the file and determined that this property is contiguous with existing City limits. They have also determined there will be minimal impact created from the annexation of this property.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW:

N/A

A handwritten signature in black ink, appearing to be 'JA' with a large loop at the top.

ATTACHED INFORMATION:

- 1) Annexation Petition from Property Owner
- 2) Vicinity Map
- 3) Photographs of the Property
- 4) Departmental Comments

COPY

PETITION FROM PROPERTY OWNER REQUESTING ANNEXATION

Petition Requesting Annexation to the City of Branson

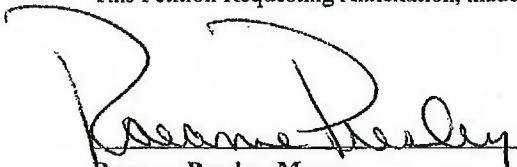
City of Branson, a city of the Fourth Class, State of Missouri (hereinafter "owner"), for its petition to the Board of Aldermen of the City of Branson state and allege as follows:

1. That it is the owner of all fee interests of record in the real estate in Taney County, Missouri, described as follows, to wit:

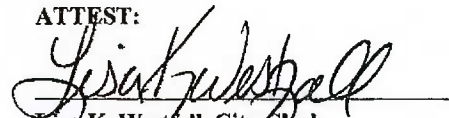
See Attached Exhibit 'A'

2. That said real estate is not now a part of any incorporated municipality.
3. That the said real estate is contiguous to the existing corporate limits of the City of Branson, Missouri.
4. That it requests that the said real estate to be annexed to, and be included within the corporate limits of, the City of Branson, Missouri, as authorized by the provisions of Section 71.012, RSMo.
5. That it requests the Board of Aldermen of the City of Branson to cause the required notice to be published and to conduct the public hearing required by law and to thereafter adopt an ordinance extending the limits of the City of Branson to include the above described real estate.

This Petition Requesting Annexation, made this 23rd day of November, 2010.


Raeanne Presley, Mayor
City of Branson, Missouri

ATTEST:


Lisa K. Westfall, City Clerk

APPROVED AS TO FORM:


William T. Duston, Assistant City Attorney



ACKNOWLEDGMENT OF CITY OFFICIAL

STATE OF MISSOURI)
) SS.
COUNTY OF TANEY)

On this 23rd day of November, 2010, before me personally appeared Racanne Presley, Mayor, to me known, and who being by me duly sworn, did say that they are said officials of the City of Branson, a city of the Fourth Class, State of Missouri, and that the seal affixed to the foregoing Petition For Annexation is the corporate seal of said City, and that said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said officials acknowledged said instrument to be the free act and deed of said City.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.


Notary Public

My Commission Expires:

3/10/2013

[SEAL]

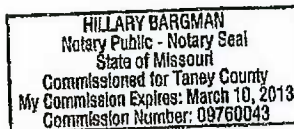


Exhibit 'A'
17-3.0-06-000-000-001.000
412 Owen Lane

A tract of land described as a portion of Lots 10, 11 and 12 of fractional Section 6, Township 22 North, Range 21 being more particularly described as follows:

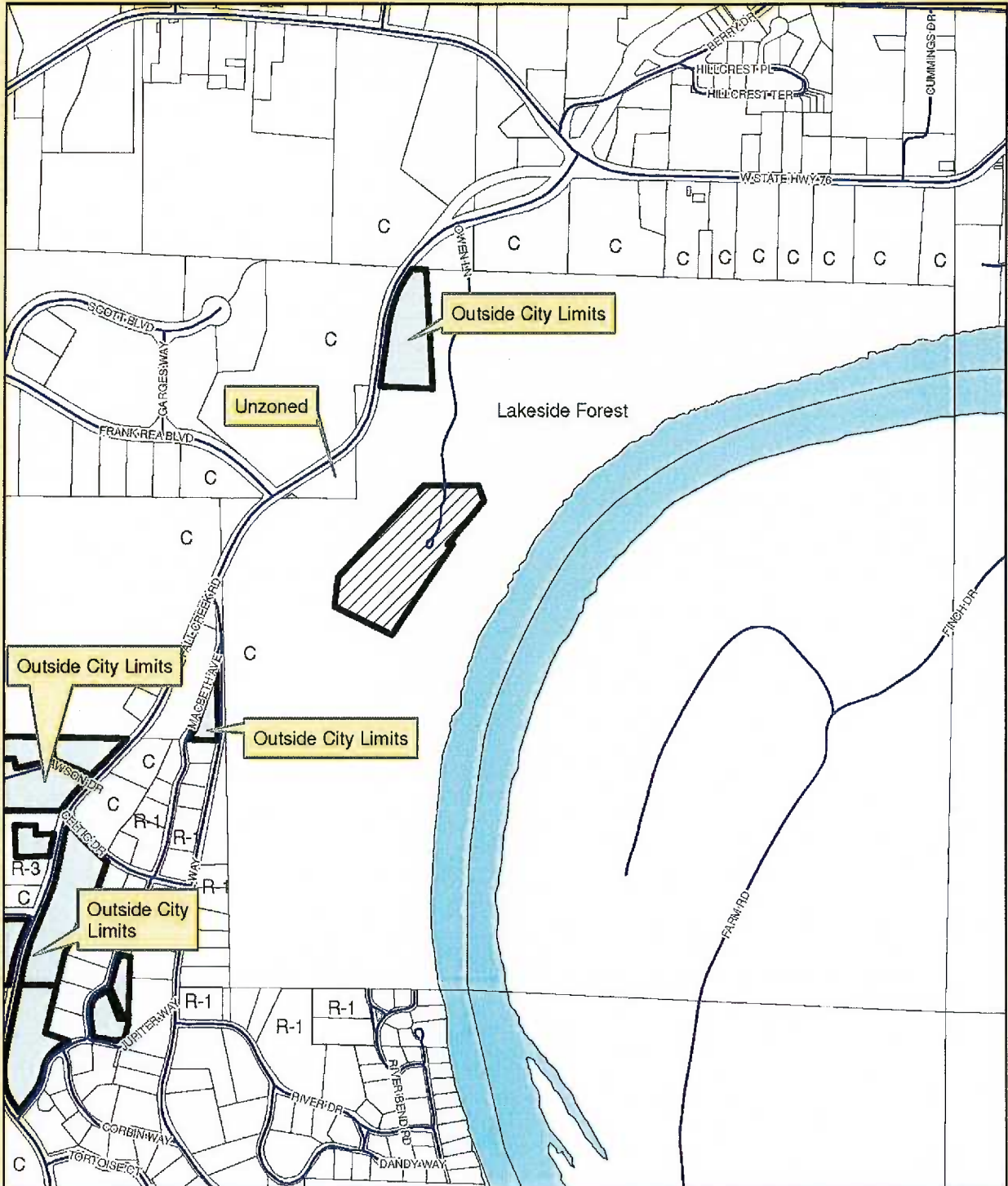
Commencing at an iron pin at the Northeast corner of Lot 10, of fractional Section 6, Township 22 North, Range 21 West, of the Fifth Principal Meridian; thence along the East line of said Lot 10, South 03°21'30" East, 1234.78 feet to the point of beginning; thence South 36°56'52" East, 97.60 feet; thence South 41°25'23" West, 288.18 feet; thence South 35°34'46" West, 605.98 feet; thence North 61°29'53" West, 350.00 feet; thence North 08°34'29" East, 163.57 feet; thence North 44°33'37" East, 659.00 feet; thence South 87°52'14" East, 305.60 feet to the point of beginning, containing 7.42 acres, more or less. Subject to all easements, covenants, reservations and restrictions of record and not of record.

VICINITY MAP
412 Owen Lane
City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
November 2010



0 105 210 420 630 840 Feet







Located in Planned

Department	Growth Area	Service Impact	Budget Impact			
Fire Department:	Yes <u>X</u>	None _____	None _____ Minimal <u>X</u>			
	No _____	Minimal <u>X</u> or	Significant _____ NA _____			
	or NA _____	Significant _____	If so, budgeted for 2010?			
			Yes		No	X
The Owens Property is within our 5 minute response model however it is in an area without fire hydrants. For now, water supply for fire suppression will be provided by Water Tender shuttle.						
Name:	T. Martin		Date:	12/14/ 2010		

Police Department:	Yes _____	None _____	None _____ Minimal _____			
	No _____	Minimal <u>X</u> or	Significant _____ NA <u>X</u>			
	or NA <u>X</u>	Significant _____	If so, budgeted for 2010?			
			Yes		No	
Minimal impact for PD						
Name:	C. W. McCullough		Date:	12/13/2010		

Engineering/ Public Works Department:	Yes _____	None <u>X</u>	None _____ Minimal _____			
	No _____	Minimal _____ or	Significant _____ NA <u>X</u>			
	or NA <u>X</u>	Significant _____	If so, budgeted for 2010?			
			Yes		No	
No comments						
Name:	Keith Francis		Date:	12/13/2010		

Utilities Department:	Yes _____	None _____	None <u>X</u> Minimal _____			
	No _____	Minimal <u>X</u> or	Significant _____ NA _____			
	or NA <u>X</u>	Significant _____	If so, budgeted for 2010?			
			Yes		No	
No issues.						
Name:	Kendall Powell		Date:	12/16/10		

Finance Department:	Yes _____	None <u>X</u>	None _____ Minimal _____			
	No _____	Minimal _____ or	Significant _____ NA <u>X</u>			
	or NA <u>X</u>	Significant _____	If so, budgeted for 2010?			
			Yes		No	
No comments						
Name:	Laura Cather		Date:	12/16/10		

Planning & Dev. Department:	Yes <u>X</u>	None <u>X</u>	None <u> </u> Minimal <u> </u>			
	No <u> </u>	Minimal <u> </u> or	Significant <u> </u> NA <u>X</u>			
	or NA <u> </u>	Significant <u> </u>	If so, budgeted for 2010?			
			Yes		No	
The addition of this property to the community, and to Lakeside Forest Wilderness Area, will be a benefit to all residents and visitors who visit it and enjoy its setting and beauty.						
Name:	Joel Hornickel		Date:	12/16/10		

BILL NO. 3891

ORDINANCE NO. _____

**AN ORDINANCE APPROVING THE ANNEXATION OF 412 OWEN LANE,
BRANSON, MISSOURI.**

WHEREAS, on November 23, 2010, a verified petition signed by all the owners of the real estate hereinafter described requesting annexation of said territory into the City of Branson, Missouri, was filed with the city clerk; and

WHEREAS, said real estate as hereinafter described is adjacent and contiguous to the present corporate limits of the City of Branson, Missouri; and,

WHEREAS, a public hearing concerning said matter was held at the City Hall in Branson, Missouri, at the hour of 7:00 pm on January 11, 2011; and,

WHEREAS, notice of said Public Hearing, was given by publication of notice thereof, on Wednesday, January 1, 2011, in the Branson Tri-Lakes News, a weekly newspaper of general circulation in the County of Taney, State of Missouri; and

WHEREAS, at said Public Hearing, all interested persons, corporations or political subdivisions were afforded the opportunity to present evidence regarding the proposed annexation; and,

WHEREAS, no written objection to the proposed annexation was filed with the Board of Aldermen of the City of Branson, Missouri, within fourteen days after the public hearing; and

WHEREAS, the Board of Aldermen of the City of Branson, Missouri, does find and determine that said annexation is reasonable and necessary to the proper development of the city; and

WHEREAS, the city is able to furnish normal municipal services to said area within a reasonable time after annexation; now

**THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY
OF BRANSON, MISSOURI, AS FOLLOWS:**

Section 1: Pursuant to the provision of Section 71.012 RSMo the following described real estate is hereby annexed into the City of Branson, Missouri, to wit:

See Exhibit 'A'

Section 2: The boundaries of the City of Branson, Missouri, hereby are altered so as to encompass the above described tract of land lying adjacent and contiguous to the present corporate limits.

Section 3: The City Clerk of the City of Branson hereby is ordered to cause three certified copies of this Ordinance to be filed with the Taney County Clerk.

Section 4: This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William Duston
City Attorney

Exhibit 'A'
17-3.0-06-000-000-001.000
412 Owen Lane

A tract of land described as a portion of Lots 10, 11 and 12 of fractional Section 6, Township 22 North, Range 21 being more particularly described as follows:

Commencing at an iron pin at the Northeast corner of Lot 10, of fractional Section 6, Township 22 North, Range 21 West, of the Fifth Principal Meridian; thence along the East line of said Lot 10, South 03°21'30" East, 1234.78 feet to the point of beginning; thence South 36°56'52" East, 97.60 feet; thence South 41°25'23" West, 288.18 feet; thence South 35°34'46" West, 605.98 feet; thence North 61°29'53" West, 350.00 feet; thence North 08°34'29" East, 163.57 feet; thence North 44°33'37" East, 659.00 feet; thence South 87°52'14" East, 305.60 feet to the point of beginning, containing 7.42 acres, more or less. Subject to all easements, covenants, reservations and restrictions of record and not of record.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL APPROVING THE ANNEXATION OF 101 COVERED
BRIDGE DRIVE, BRANSON, MISSOURI.

FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: PLANNING & DEVELOPMENT



CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

This bill approves the annexation of 101 Covered Bridge Drive. The property contains approximately 0.69 acres more or less. Staff formally presented this petition to the governing body of the City on December 14, 2010. This is the public hearing and first reading of the ordinance. The January 11, 2011, date for the public hearing is in accordance with the RSMo requirement of no less than fourteen (14) days, nor more than sixty (60) days after the receipt of the petition by the Board of Aldermen.

This property is bordered by Shepherd of the Hills Expressway's right-of-way to the west, south and east. It is also bordered by the Audubon Place Planned Development and a ten (10) acre parcel zoned A agricultural to its north.

The applicant is proposing to add this parcel to the existing Audubon Place Planned Development so a feasible access point to the Covered Bridge RV Resort portion can be created along Shepherd of the Hills Expressway for resort guests. Additionally, as the resort's name alludes to, a covered bridge is proposed to be built within this property so access can be actually created. The amendment to the Audubon Place PD, including this request, received the Planning and Zoning Commission's recommendation for approval on January 4, 2011, and will be presented at the January 25, 2011, Board of Aldermen meeting.

Staff has reviewed the file and determined that this property is contiguous with existing City limits. They have also determined there will be minimal impact created from the annexation of this property.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW:

N/A

**ATTACHED INFORMATION:**

- 1) Annexation Petition from Property Owner
- 2) Vicinity Map
- 3) Departmental Comments

COPY

PETITION FROM PROPERTY OWNER REQUESTING ANNEXATION

Petition Requesting Annexation to the City of Branson

Parcel ID # 07-7.0-25-000-000-002.029

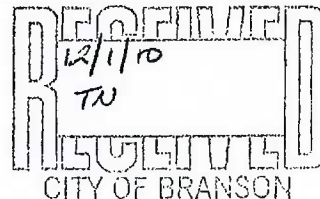
TrenCap Partners, a limited liability company of the State of Kentucky hereinafter referred to as the Petitioner, for its petition to the Board of Aldermen of the City of Branson state and allege as follows:

1. That it is the owners of all fee interests of record in the real estate in Taney County, Missouri, described as follows, to wit:

A tract of land being part of the South 1/2 of the Northeast 1/4 of Section 25, in Township 23 North – Range 22 West, Taney County, Missouri and being more particularly described as follows:

BEGINNING at the intersection of the right-of-way line of the relocated Shepherd of the Hills Parkway with the North line of said South 1/2 of the Northeast 1/4 of Section 25, said point being distant North 87° 59' 04" West, a distance of 1106.02 feet from the Northeast corner thereof and being the Northeast corner of property of SCB, L.C. as described in the deed recorded as document number 2007L52080 in the Taney County Records; thence along said right of way line of the relocated Shepherd of the Hills Parkway and the boundary lines of said SCB, L.C. property the following courses and distances: South 00° 12' 59" East, a distance of 49.54 feet, South 89° 44' 37" West, a distance of 326.34 feet, along a curve to the left having a radius of 720.00 feet, an arc length of 157.51 feet, a chord which bears South 83° 27' 48" West, a chord distance of 157.19 feet and North 12° 37' 21" West, a distance of 88.69 feet to the aforesaid North line of the South 1/2 of the Northeast 1/4 of Section 25, being also the Northwest corner of aforesaid SCB, L.C. property; thence South 87° 59' 04" East, a distance of 502.01 feet along said North line of SCB, L.C. property and the said North line of the South 1/2 of the Northeast 1/4 of Section 25 to the point of BEGINNING and containing 30,237 square feet or 0.69 acres more or less.

2. That said real estate is not now a part of any incorporated municipality.
3. That the said real estate is contiguous to the existing corporate limits of the City of Branson, Missouri.
4. That it request that the said real estate to be annexed to, and be included within the corporate limits of, the City of Branson, Missouri, as authorized by the provisions of Section 71.012, RSMo.
5. That it request the Board of Aldermen of the City of Branson to cause the required notice to be published and to conduct the public hearing required by law and to thereafter adopt an ordinance extending the limits of the City of Branson to include the above described real estate.



This Petition Requesting Annexation, made this 29th day of NOVEMBER, 2010.

A handwritten signature in black ink, appearing to read "J. Deut", is written over a horizontal line.

Managing Member

VERIFICATION

STATE OF KENTUCKY)
)
COUNTY OF FAYETTE) SS.

COMES NOW Thetford H. Callahan, being of lawful age and after being duly sworn, states that [he/she] has read the foregoing Petition Requesting Voluntary Annexation of Property into the City of Branson and that the facts therein are true and correct according to [his/her] best knowledge and belief.

Harold
Petitioner

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



Notary Public

My Commission Expires:

11-25-10

[SEAL]

ACKNOWLEDGMENT OF PROPERTY OWNER

STATE OF KENTUCKY)
) SS.
COUNTY OF FAYETTE)

On this 29th day of November, 2010, before me personally appeared Therford H. Callahan, to me known, and who being by me duly sworn, did say that [he/she] is the managing member of TrenCap Partners, a limited liability company of the State of Kentucky, and that as such managing member [he/she] has the authority to execute the foregoing *Voluntary Petition For Annexation* on behalf of said limited liability company, and said managing member acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



Notary Public

My Commission Expires:

11-25-14

[SEAL]

VICINITY MAP

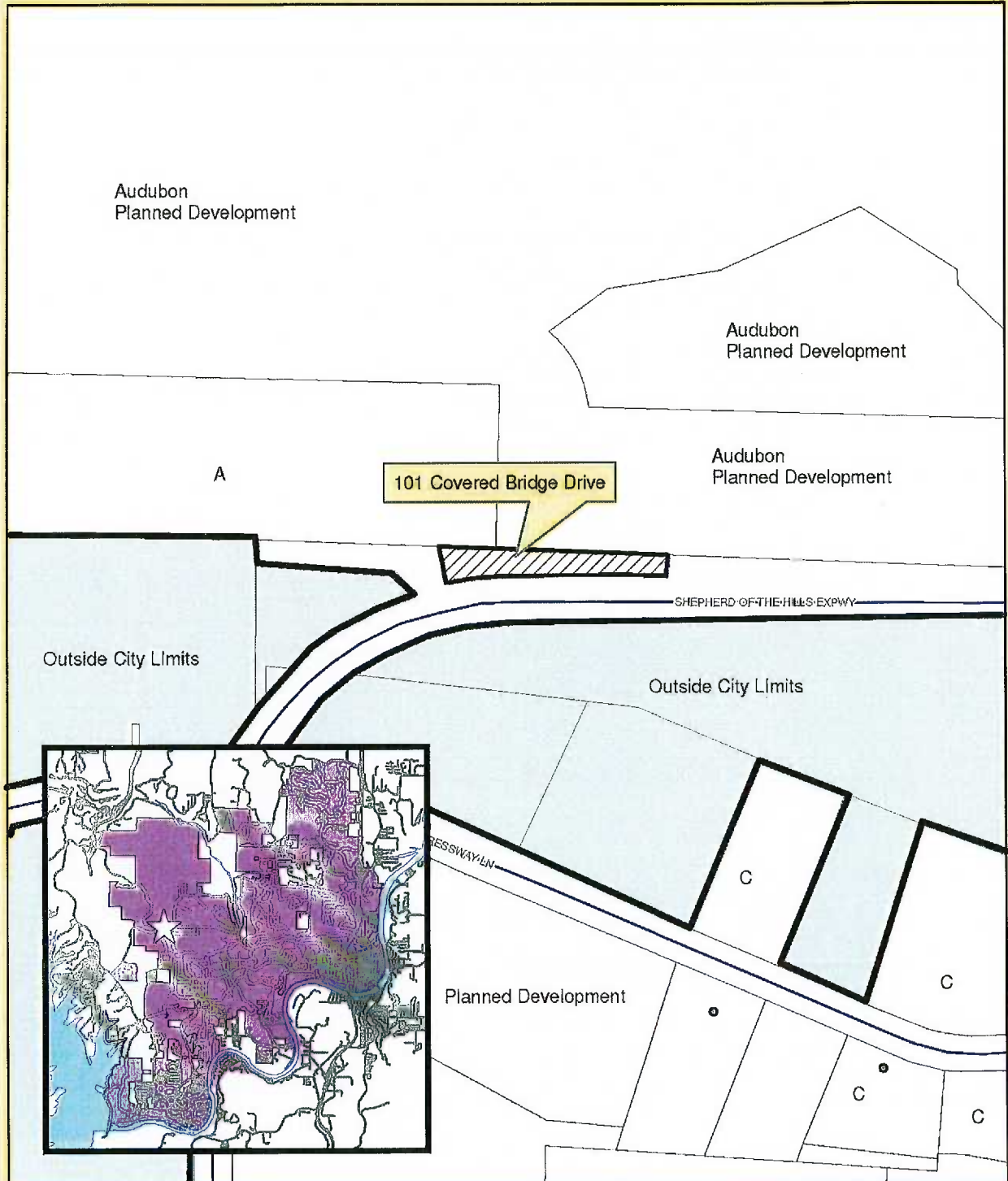
101 Covered Bridge Drive

City of Branson, Missouri

City of Branson, Taney County, Missouri
Planning and Development Dept.
November 2010



0 40 80 160 240 320 Feet



Department	Located in Planned Growth Area	Service Impact	Budget Impact			
Fire Department:	Yes _____ No _____ or NA <u>X</u>	None _____ Minimal <u>X</u> or Significant _____	None _____ Minimal <u>X</u> Significant _____ NA _____			
			If so, budgeted for 2010?			
			Yes		No	
The Covered Bridge Property is within our 5 minute response model and will provide minimal impact until the property develops.						
Name:	T. Martin	Date:	12/14/2010			

Police Department:	Yes _____ No _____ or NA <u>X</u>	None _____ Minimal <u>X</u> or Significant _____	None _____ Minimal _____ Significant _____ NA <u>X</u>			
			If so, budgeted for 2010?			
			Yes		No	
Minimal Impact.						
Name:	C. W. McCullough	Date:	12/13/2010			

Engineering/ Public Works Department:	Yes _____ No _____ or NA <u>X</u>	None <u>X</u> Minimal _____ or Significant _____	None _____ Minimal _____ Significant _____ NA <u>X</u>			
			If so, budgeted for 2010?			
			Yes		No	
No comment.						
Name:	Keith Francis	Date:	12/13/10			

Utilities Department:	Yes _____ No _____ or NA <u>X</u>	None _____ Minimal <u>X</u> or Significant _____	None <u>X</u> Minimal _____ Significant _____ NA _____			
			If so, budgeted for 2010?			
			Yes		No	
No issues.						
Name:	Kendall Powell	Date:	12/16/10			

Finance Department:	Yes _____ No _____ or NA <u>X</u>	None <u>X</u> Minimal _____ or Significant _____	None _____ Minimal _____ Significant _____ NA <u>X</u>			
			If so, budgeted for 2010?			
			Yes		No	
No comments.						
Name:	Laura Cather	Date:	12/16/10			

Planning & Dev. Department:	Yes <u>X</u> No _____ or NA _____	None _____ Minimal <u>X</u> or Significant _____	None <u>X</u> Minimal _____ Significant _____ NA _____				
			If so, budgeted for 2010?				
			Yes		No		
The annexation of this parcel is necessary for the development of the adjacent Planned Development in order to create the most feasible access. No other use is feasible for this parcel.							
Name:	Joel Hornickel		Date:	12/14/2010			

BILL NO. 3892

ORDINANCE NO. _____

AN ORDINANCE APPROVING THE ANNEXATION OF 101 COVERED BRIDGE DRIVE, BRANSON, MISSOURI.

WHEREAS, on December 1, 2010, a verified petition signed by all the owners of the real estate hereinafter described requesting annexation of said territory into the City of Branson, Missouri, was filed with the city clerk; and

WHEREAS, said real estate as hereinafter described is adjacent and contiguous to the present corporate limits of the City of Branson, Missouri; and,

WHEREAS, a public hearing concerning said matter was held at the City Hall in Branson, Missouri, at the hour of 7:00 pm on January 11, 2011; and,

WHEREAS, notice of said Public Hearing, was given by publication of notice thereof, on Wednesday, January 1, 2011, in the Branson Tri-Lakes News, a weekly newspaper of general circulation in the County of Taney, State of Missouri; and

WHEREAS, at said Public Hearing, all interested persons, corporations or political subdivisions were afforded the opportunity to present evidence regarding the proposed annexation; and,

WHEREAS, no written objection to the proposed annexation was filed with the Board of Aldermen of the City of Branson, Missouri within fourteen days after the public hearing; and

WHEREAS, the Board of Aldermen of the City of Branson, Missouri, does find and determine that said annexation is reasonable and necessary to the proper development of the city; and

WHEREAS, the city is able to furnish normal municipal services to said area within a reasonable time after annexation; now

THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: Pursuant to the provision of Section 71.012 RSMo the following described real estate is hereby annexed into the City of Branson, Missouri, to wit:

See Exhibit 'A'

Section 2: The boundaries of the City of Branson, Missouri, hereby are altered so as to encompass the above described tract of land lying adjacent and contiguous to the present corporate limits.

Section 3: The City Clerk of the City of Branson hereby is ordered to cause three certified copies of this Ordinance to be filed with the Taney County Clerk.

Section 4: This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor.

Read, this first time on this _____ day of _____, 2011.

Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William Duston
City Attorney

Exhibit 'A'

07-7.0-25-000-000-002.029

101 Covered Bridge Drive

A tract of land being part of the South 1/2 of the Northeast 1/4 of Section 25, in Township 23 North – Range 22 West, Taney County, Missouri and being more particularly described as follows:

BEGINNING at the intersection of the right-of-way line of the relocated Shepherd of the Hills Parkway with the North line of said South 1/2 of the Northeast 1/4 of Section 25, said point being distant North 87° 59' 04" West, a distance of 1106.02 feet from the Northeast corner thereof and being the Northeast corner of property of SCB, L.C. as described in the deed recorded as document number 2007L52080 in the Taney County Records; thence along said right of way line of the relocated Shepherd of the Hills Parkway and the boundary lines of said SCB, L.C. property the following courses and distances: South 00° 12' 59" East, a distance of 49.54 feet, South 89° 44' 37" West, a distance of 326.34 feet, along a curve to the left having a radius of 720.00 feet, an arc length of 157.51 feet, a chord which bears South 83° 27' 48" West, a chord distance of 157.19 feet and North 12° 37' 21" West, a distance of 88.69 feet to the aforesaid North line of the South 1/2 of the Northeast 1/4 of Section 25, being also the Northwest corner of aforesaid SCB, L.C. property; thence South 87° 59' 04" East, a distance of 502.01 feet along said North line of SCB, L.C. property and the said North line of the South 1/2 of the Northeast 1/4 of Section 25 to the point of BEGINNING and containing 30,237 square feet or 0.69 acres more or less.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AUTHORIZING AN AGREEMENT WITH TRI-STATES UTILITY FOR SEWER BILLING SERVICES OF CITY SEWER CUSTOMERS CONNECTED TO TRI-STATES WATER SYSTEM.

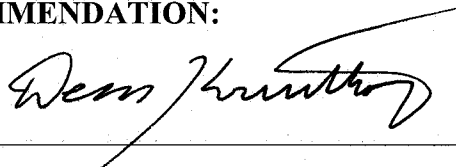
FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: UTILITIES DEPARTMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Tri-States Utility is willing to provide sewer billing services for the City of Branson following the terms and conditions of the attached contract. Currently the City of Branson does not have the ability to follow the normal practice of discontinuing water service for delinquent payment of sewer bills for our sewer customers connected to the Tri-States water system. As a result numerous sewer bills are left unpaid and now total over \$350,000 in delinquent sewer payments. In this agreement monthly City sewer billing will now be included on Tri-States' water bills allowing the customer to pay for both water and sewer at the same time and at one location. Tri-States will collect the monthly sewer charges and remit that amount, along with the associated water consumption records, to the City on a monthly basis. Payment will be required for the total combined water and sewer bill in order for the customer billing to remain current. Failure to pay the combined bill, or the sewer portion, will result in payment delinquency and will be subject to water service discontinuance following current water termination procedures of Tri-States Utility and the City of Branson. Tri-States will provide all notifications for potential water terminations and, if necessary, all materials and labor for the actual discontinuance process. Tri-States will provide these services for a service fee of \$4,400.00 per month.

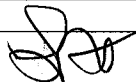
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 620-4410-570.20-99



ATTACHED INFORMATION:

AN ORDINANCE APPROVING AN AGREEMENT WITH TRI-STATES UTILITY FOR SEWER BILLING SERVICES OF CITY SEWER CUSTOMERS CONNECTED TO TRI-STATES UTILITY WATER SYSTEM AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson charges a monthly fee for sewer services to customers both inside and outside the City limits and the City desires for Tri-States Utility to collect said sewer fees on a combined water and sewer bill from City sewer customers connected to Tri-States Utility water system; and

WHEREAS, Tri-States Utility provides water services to residents which includes customers connected to the City of Branson sewer collection system and is authorized, at the request and direction of the City of Branson, to collect said sewer fees and to terminate water services at any premises, at which the combined water and sewer bill, or sewer portion thereof, are unpaid; and

WHEREAS, the Board of Aldermen desires to enter into the agreement.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: That the Board of Aldermen hereby authorizes the Mayor to execute a contract with Tri-States Utility in the form attached hereto as Exhibit "1" and authorizes the Mayor to execute the same.

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read this first time on _____ day of _____, 2011.


Read this second time, passed, and truly agreed to by the Board of Aldermen of the City of Branson, Missouri, on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

SEWER BILLING SERVICE AGREEMENT

This Agreement is hereby entered into on this ____ day of _____, 20____, between the CITY OF BRANSON, MISSOURI, a fourth class city of the State of Missouri, hereinafter called the "City", and TRI-STATES UTILITY, INC., a corporation of the State of Missouri, having its primary office at 302 Terrace Road, Branson, Missouri 65616, hereinafter called the "Water Company."

WITNESSETH:

WHEREAS, the City is engaged in supplying sewer service to the citizens and residents inside and outside the City limits; and

WHEREAS, the City charges a fee for such sewer services and bills such fee on a monthly basis to its customers so served; and

WHEREAS, the Water Company is the owner and operator of a water distribution system, which includes customers connected to the City sewer collection system, subject to the laws of the State of Missouri, and the Jurisdiction, Rules and Regulations of the Missouri Public Service Commission (PSC); and

WHEREAS, the City desires for the Water Company to collect said sewer fees on a combined water and sewer bill from City sewer customers connected to the Water Company water distribution system; and

WHEREAS, the Water Company is authorized, at the request and direction of the City, pursuant to the provisions of §§ 250.236 and 393.015 of the Revised Statutes of the State of Missouri, to collect the City sewer fees and to terminate water services and discontinue the supply of water from its water system to any premises, at which the combined water and sewer bill, or portion thereof as described herein, for services supplied by the City and the Water Company are unpaid;

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein and other good and valuable consideration, the parties do mutually agree as follows:

1. **Billing of Sewer Service:** The Water Company shall incorporate on its monthly water bills for those Water Company customers connected to City sewer, fees and associated charges for City sewer service, based on the established sewer rates according to City Code. The sewer fees shall be based on the amount of water consumption of the sewer customer and calculated using the most current City Sewer Rates established and approved by the Branson Board of Aldermen and set forth in City Ordinance. City sewer rates are reviewed annually and any rate increase affecting this agreement shall be made effective on the beginning of the City fiscal year beginning January 1st of each year.
2. **Collection of Sewer Fees:** The Water Company shall collect the City sewer fees from Water Company customers connected to the City sewer at the time the Water Company customer pays the water bill due the Water Company. The customer shall be required to pay the combined water and

sewer bill in accordance to the Water Company payment policy to be considered current in payment with both the Water Company and the City.

3. **Remittance of Sewer Fees Collected:** At the end of each monthly billing cycle and by or before the tenth (10th) day of the following month the Water Company shall remit to the City the total amount of revenue collected from the City sewer customers for sewer service.

4. **Termination of Water Service:** Should a customer connected to the City sewer system and Water Company water distribution system be delinquent in the payment of the combined water and sewer bill the Water Company shall make determination to terminate water service in accordance to the policies and procedures set forth by the Water Company and regulated by the Public Service Commission for the termination of said water service. Should a customer connected to the City sewer system and Water Company water distribution system pay only the water portion of the bill and remains delinquent on the sewer portion, the Water Company shall notify the City of the nonpayment for sewer. The City shall review the information and shall give written direction to the Water Company to proceed with discontinuance of the water service if the sewer portion of the combined water and sewer bill is found to be delinquent in accordance to City code.

5. **Late Fees for Delinquent Payment:** Late fees assessed for delinquent payment shall be in accordance with the policies and procedures of the Water Company and regulated by the Public Service Commission. Any late fees collected and due from the customer connected to the City sewer system and Water Company water distribution system shall be retained by the Water Company. The City's sewer customer shall be afforded the right to be heard on the correctness of the record of arrearages; and all Federal and State Constitutional as well as Federal and State Statutory prerequisites applicable to the collection of debt shall be properly satisfied before termination.

6. **Restoration of Water Service:** Once applicable payment has been made of delinquent fees and charges of the combined water and sewer bill the Water Company shall restore water service in accordance to the policies and procedures of the Water Company.

7. **Sewer Service Deposit:** At the time of request for water service the Water Company shall collect a sewer deposit, in accordance with City code from customers that will be connected to the City sewer system and the Water Company distribution system. At the end of each month the Water Company shall remit to the City the amount of sewer deposit(s) collected during that period.

8. **Payment for Billing and Collection Services:** The City shall pay the Water Company concurrently the sum of \$4,400.00 per month for the services of collecting and remitting sewer fees and associated charges and deposits from each customer connected to the City sewer system and the Water Company distribution system, and for terminating the water supply to each premises for delinquent combined water and sewer bills, or in such cases where a combined water and sewer customer pays only the water portion of the combined water and sewer bill and the sewer portion of the bill remains delinquent. Such amount shall not be subject to refund for any reason, except that in the event the Water Company does not collect or remit fees as agreed or discontinue services for any reason other than those reasons herein. The City shall pay the bill for services within ten (10) days after receipt thereof. The monthly service fee shall not be dependent on the amount of terminations necessary due to late payments. The fees fixed hereunder may be amended at the time of agreement renewal as agreed in writing by both parties; to make adjustments for additional or reduced costs that may be incurred by the Water Company.

9. **Administrative Fee:** An administrative fee, in the amount \$1.50, shall be assessed to each City sewer customer connected to the Water Company distribution system, to cover costs for services provided by the Water Company under this agreement. The Water Company shall collect the administrative fee on a monthly basis from each sewer customer connected to the Water Company distribution system and remit said fee to the City at the time of the sewer fee remittance. The administrative fee may be amended by the City at the time of agreement renewal to cover additional or reduced costs for the services of the Water Company under this agreement.

10. **Customer Communication:** The Water Company shall notify the customer of the amount of water and sewer fees due at the time of billing through the Water Company billing process. Any dispute or disagreement of the City sewer customer regarding the sewer fee shall be referred to the City for resolution. Any adjustment to charges for sewer service shall be determined by the City using the policies and procedures of the City sewer adjustment ordinance as established and approved by the Branson Board of Aldermen. The City shall notify the Water Company of any adjustment for correction on the customer bill.

11. **Copies for Record:** A printed copy for record of water consumption and applicable fees and charges for sewer service for each combined water and sewer customer shall be furnished to the City with each remittance of fees collected for said sewer service.

12. **Missouri Immigration Law Affidavit:** After January 1, 2009, the service provider takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the services provider will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The service provider will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for an Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

PROVIDED HOWEVER, the Water Company shall not be liable for any loss, damage or other claim asserted by the City's sewer customers, the owner and/or tenant of the premises, the City or any other person, corporation or entity based upon or arising out of this agreement. To the extent required or permitted by § 393.015.2 and § 250.236.2, the City agrees to indemnify, defend and hold the Water Company harmless from and against any and all claims, complaints or causes of action arising out of the actions taken by the Water Company pursuant to this agreement and pertaining to sewer services.

The Water Company's actions required under this agreement shall be excused if due to matters beyond its control, including but not limited to employee work stoppages, strikes, inclement weather or emergencies requiring utilization of manpower or resources elsewhere. Termination of service will not be completed if a local board of health, municipality, fire district, court of competent jurisdiction or other governmental entity having jurisdiction, issues an instruction or order so stating to the Water Company. At such time, the Water Company will relay such

information to the City, and Water Company will not take further action toward termination. Thereafter, the City shall indemnify, defend and hold the Water Company harmless for actions taken by the Water Company. In no event shall Water Company be required to disconnect a fire line service without authorization from the governmental authority responsible for fire protection to the affected property, even in cases of combined fire and domestic service lines.

If a dispute shall arise between the parties regarding any of the provisions of this agreement, such dispute may be submitted by the parties to the Missouri Public Service Commission, whose decision, unless reversed on appeal, shall be final.

This agreement shall be in effect upon signing by both parties and ending on December 31, 2011. If upon expiration of this agreement a renewal agreement has not been reached the original agreement shall continue on a month by month basis until a renewal agreement is reached or the agreement is terminated. This agreement may be terminated upon ninety (90) days written notice to the other party at its principal place of business.

Upon execution of this agreement by the City and the Water Company, the Water Company shall immediately submit this agreement to the Missouri Public Service Commission for approval. This agreement is subject to the approval of the Missouri Public Service Commission and is further subject to the Rules and Regulations and Tariffs of the Water Company as same are presently on file with and approved by the Missouri Public Service Commission, except as modified herein.

This agreement may not be assigned to a third party without the expressed written consent of the other party.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the date first written above.

CITY OF BRANSON

TRI-STATE UTILITY, INC

By: _____

Raeanne Presley
Mayor

By:  _____


Tom Kelley
Vice President/COO

ATTEST:

APPROVED: _____, 20____.

Lisa K Westfall
City Clerk

APPROVED AS TO FORM:



William Duston
City Attorney

information to the City, and Water Company will not take further action toward termination. Thereafter, the City shall indemnify, defend and hold the Water Company harmless for actions taken by the Water Company. In no event shall Water Company be required to disconnect a fire line service without authorization from the governmental authority responsible for fire protection to the affected property, even in cases of combined fire and domestic service lines.

If a dispute shall arise between the parties regarding any of the provisions of this agreement, such dispute may be submitted by the parties to the Missouri Public Service Commission, whose decision, unless reversed on appeal, shall be final.

This agreement shall be in effect upon signing by both parties and ending on December 31, 2011. If upon expiration of this agreement a renewal agreement has not been reached the original agreement shall continue on a month by month basis until a renewal agreement is reached or the agreement is terminated. This agreement may be terminated upon ninety (90) days written notice to the other party at its principal place of business.

Upon execution of this agreement by the City and the Water Company, the Water Company shall immediately submit this agreement to the Missouri Public Service Commission for approval. This agreement is subject to the approval of the Missouri Public Service Commission and is further subject to the Rules and Regulations and Tariffs of the Water Company as same are presently on file with and approved by the Missouri Public Service Commission, except as modified herein.

This agreement may not be assigned to a third party without the expressed written consent of the other party.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be duly executed as of the date first written above.

CITY OF BRANSON

TRI-STATE UTILITY, INC

By: _____

Raeanne Presley
Mayor

By:  _____

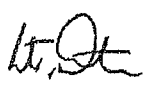
Tom Kelley
Vice President/COO

ATTEST:

APPROVED: _____, 20____.

Lisa K Westfall
City Clerk

APPROVED AS TO FORM:



William Duston
City Attorney

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF TRI-LAKES FORD
PERTAINING TO THE PURCHASE OF VEHICLES AND AUTHORIZING THE
MAYOR TO EXECUTE THE CONTRACT.

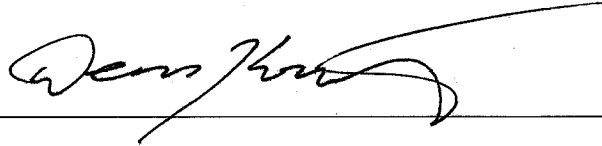
FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: POLICE DEPARTMENT *CWW*

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Initially we had requested funds be included in the budget for the replacement of six (6) police vehicles, in this budget cycle we will have five (5) vehicles that will meet the ninety thousand plus miles (90,000) replacement threshold for the acquisition of new police cars. With needing only five (5) vehicles this will give us an opportunity to use the remaining approved funds for the normal replacement of worn emergency equipment and the addition of in-car video recording systems for some of the patrol vehicles.

Bids were received November 17, 2010 for the purchase of five (5) police vehicles for the Police Department. This is for budgeted, scheduled vehicle replacement in the Police Department fleet. A total of four bids were received. Three of the bids met vehicle specification requirements as listed in the RFP. The bids received which met specification requirements are as follows:

<u>Bidder</u>		<u>Police Cars</u>	<u>No.</u>	<u>Total</u>
Tri-Lakes Ford	Branson MO.	\$24,633.00	5	\$123,165.00
Friendly Ford	Springfield MO.	\$25,398.76	5	\$126,993.80
Hudspeth Ford	Harrison AR.	\$25,967.00	5	\$129,835.00

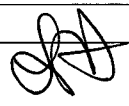
Bid award is recommended to Tri-Lakes Ford as the low bidder meeting specifications.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 601-0750-510.90-20 

ATTACHED INFORMATION:

BILL NO. 3894

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF TRI-LAKES FORD PERTAINING TO THE PURCHASE OF VEHICLES FOR THE POLICE DEPARTMENT AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson advertised for proposals for bids for replacement vehicles; and

WHEREAS, of the proposals which were received, Tri-Lakes Ford has been recommended for approval by staff; and

WHEREAS, the Board of Aldermen desires to award the contract.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: The Board of Aldermen hereby accepts the proposal of Tri-Lakes Ford for the purchase of five vehicles in the amount of \$24,633.00 each for a total amount of \$123,165.00 and authorizes the Mayor to execute the contract attached hereto as Exhibit "1".

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed, and truly agreed to by the Board of Aldermen of City of Branson, Missouri this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

CITY OF BRANSON, MISSOURI PURCHASE OF COMMODITIES CONTRACT

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between the City of Branson, Missouri (the "City") and **Tri-Lakes Motors, Inc.** ("Seller"):

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. Item(s) and dates of Purchase. The City agrees to purchase and the Seller agrees to sell the following item(s): **Five (5), four door, Ford Crown Victoria, or equivalent, from a date commencing with the execution of this contract and ending December 31, 2011.**

2. Quantities to be Purchased and Purchase Price.

- a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
- b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
- c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **One Hundred Twenty Three Thousand One Hundred Sixty Five Dollars (\$123,165.00).**

3. Delivery and Shipment.

- a. The Seller is responsible for the costs of shipment.
- b. Time is of the essence with respect to each shipment.
- c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
- d. Deliveries are to be made to **Tri-Lakes Motors, Inc., 180 State Hwy. F, Branson, MO 65616.**

4. **Invoices.** An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.
5. **Inspection and Acceptance.**
 - a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
 - b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
 - c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.
6. **Warranty.**
 - a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
 - b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
 - c. Any implied warranties are not altered by this written contract.
 - d. Additional terms: N/A.
7. **Patents.** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.
8. **Bankruptcy or Insolvency.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.
9. **Compliance with Applicable Laws.** The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items

covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed

under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

By: 

Name: Rose C. Bunsell
Address: 180 State Hwy F
Branson MO 65616
Phone: 417-334-7543
Fax: 417-334-0721

Tax ID: 43-1304938

ATTEST:


Lisa K Westfall
City Clerk

City of Branson, Missouri

By: _____

Raeanne Presley
Mayor

APPROVED AS TO FORM:



William T. Duston
City Attorney

Tri-Lake Motors
180 State Highway F & 65
Branson, MO 65616

SCOPE OF WORK

General Requirements:

001. The City wishes to purchase five (5) four-door, Ford Crown Victoria or equivalent, full size automobiles with police packages having at a minimum:

1. Model 2011
2. V-8 high output gasoline / E85 engine
3. Automatic overdrive transmission
4. Rear wheel drive
5. Air conditioning
6. Power door locks
7. Power brakes
8. Power steering
9. Power windows
10. 200-AMP max alternator
11. 78-AM HR, 750 CCA battery
12. Tinted glass
13. AM/FM stereo radio w/clock
14. Rear window defrost
15. Black dual electric remote control mirrors
16. Intermittent wipers
17. Tilt steering wheel
18. Full carpeting
19. Matching carpeted floor mats
20. Black 6" halogen spot light mounted on driver's side
21. Single key locks
22. Body side molding installed prior to delivery
23. Heavy duty cloth front bucket seats
24. Full size spare tire
25. Full wheel covers
26. Remote deck lid release
27. Calibrated speedometer
28. Radio noise suppression package
29. Police prep package including but not limited to; strobe bulbs, shielded coaxial strobe conductor cables, waterproof isolator fuses, wiring harness, power control centers, large armrest, conduit, remote door lock adapter, trunk air circulation fan, permanent "Y" secure strap, dual storage boxes, rear communications service tray, console mounting platform. i.e., Ford package 68P.
30. Full size trunk, containing at a minimum 20 cu. ft. of luggage capacity

31. Color: Two-Tone Black & White exterior as follows: roof, roof pillars and doors white, remainder black, with charcoal or black interior. Black front grill.
2. City reserves the right to reject all bids due to budget restrictions. It is the intent and purpose of the City that this Request for Bid provides fair and equal opportunity for each bidder to submit competitive bids. It is the bidder's responsibility to furnish as much details as possible for consideration.
3. The City reserves the right to inspect the equipment prior to purchase.

PRICING PAGE

The seller must provide pricing information as specified below to provide vehicles as specified in accordance with the terms and conditions of this contract.

001.	Model 2011 full size police vehicles	\$ 24,633.00 ea.
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Please state brand and model offered.
Ford Crown Victoria

Please state warranty detail and cost.
Standard Factory

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL AWARDING THE BID TO BRENNTAG MID SOUTH, INC. FOR POTASSIUM PERMANGANATE USED IN THE WATER AND WASTEWATER TREATMENT FACILITIES FOR THE CITY OF BRANSON.

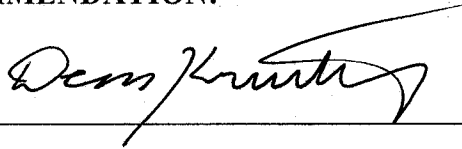
FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: UTILITIES DEPARTMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Two bids were received on October 6, 2010 for the purchase of potassium permanganate for use in the water and wastewater treatment facilities for the period of January 1, 2011 to December 31, 2011. Individual bids are as follows:

F2 Industries, LLC	\$ 2.69 per pound
Brenntag Mid South, Inc	\$ 3.25 per pound

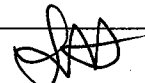
Low bidder was not able to meet the insurance requirements set forth in the bid specifications therefore bid is recommended to the next bidder meeting all specifications. Based on estimated quantities, anticipated expenditures for this chemical will be approximately \$36,000.00. This amount is within budget. Staff recommends bid award of this chemical to Brenntag Mid South, Inc.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 620-4420-570.40-15 and 620-4320-570.40-15 

ATTACHED INFORMATION:

AN ORDINANCE ACCEPTING THE PROPOSAL OF BRENNTAG MID SOUTH, INC. FOR POTASSIUM PERMANGANATE USED IN THE WATER AND WASTEWATER TREATMENT FACILITIES AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson advertised for proposals for bids for chemicals used in the water and wastewater treatment facilities for the City of Branson; and

WHEREAS, of the proposals which were received, Brenntag Mid South, Inc. has been recommended for approval by staff; and

WHEREAS, the Board of Aldermen desires to award the contract.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI, AS FOLLOWS:

Section 1: That the Board of Aldermen hereby accepts the proposal of Brenntag Mid South, Inc. for the purchase of Potassium Permanganate and Granular Chlorine used in the water and wastewater treatment facilities for an amount not to exceed \$36,000.00 and authorizes the Mayor to execute the contract in the form attached as Exhibit "1".

Section 2: This ordinance shall be in full force and effect from and after its passage and approval.

Read this first time on _____ day of _____, 2011.


Read this second time, passed, and truly agreed to by the Board of Aldermen of the City of Branson, Missouri, on this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

CITY OF BRANSON, MISSOURI PURCHASE OF COMMODITIES CONTRACT

THIS AGREEMENT made and entered into this 3rd day of January, 2010, by and between the City of Branson, Missouri (the "City") and Brenntag Mid-South, Inc. ("Seller").

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. **Item(s) and dates of Purchase.** The City agrees to purchase and the Seller agrees to sell the following item(s): **Water/Wastewater Treatment Chemicals (Potassium Permanganate) from a date commencing January 1, 2011 and ending December 31, 2011.**
2. **Quantities to be Purchased and Purchase Price.**
 - a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
 - b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
 - c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **Thirty Six Thousand Dollars (\$36,000.00).**
3. **Delivery and Shipment.**
 - a. The Seller is responsible for the costs of shipment.
 - b. Time is of the essence with respect to each shipment.
 - c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
 - d. Deliveries are to be made to: **Various Locations**

4. Invoices. An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.

5. Inspection and Acceptance.

- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
- b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
- c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.

6. Warranty.

- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
- b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
- c. Any implied warranties are not altered by this written contract.
- d. Additional terms: [describe anything else that should be stated about warranties].

7. Patents. Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.

8. Bankruptcy or Insolvency. In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

9. Compliance with Applicable Laws. The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture

or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.

16. Conflicts. No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Bonds and Insurance. The Service Provider must have and maintain, at the Service Provider's expense, adequate liability insurance and bonds (if applicable) to satisfy statutory bonding requirements, of section 537.610.2 and 537.610.5 of the Missouri Revised Statutes to protect the City and the general public against any loss, damage and/or expense related to the Service Provider's performance under this contract. The insurance coverage shall include, but need not be limited to, the following coverage's in the amounts specified. Such insurance must indemnify the City to the fullest extent possible under the laws of the State of Missouri

A. General Liability Insurance with a company licensed to do business in the State of Missouri with limits of liability not less than two million five hundred nine thousand one hundred eighty-six dollars (\$2,509,186.00) per occurrence for personal injuries (including death) and property damage. The City of Branson must be named as an additional insured.

B. Automobile Liability Insurance with a company authorized to do business in the State of Missouri having limits of liability not less than two million five hundred nine thousand one hundred eighty-six dollars (\$2,509,186.00) per occurrence for personal injuries (including death). The City of Branson must be named as an additional insured.

C. Worker's Compensation Insurance with a company authorized to do business in the State of Missouri having limits not less than one million dollars (\$1,000,000.00), including occupational disease provisions for all employees of the Service Provider(s) and Sub-Service Provider(s).

D. The Service Provider will require all Sub-Service Providers to provide and maintain like insurance as set forth above unless the Service Provider's policies extend to claims made against or growing out of operations of the Sub-Service Provider.

E. Written evidence of the required insurance coverage must be submitted before or upon award of the contract. Such policy(ies) shall name the City of Branson as additionally insured. Failure to maintain required insurance coverage shall be considered a breach of this contract.

F. Service Provider understands and agrees that the insurance required under the terms of the contract in no way precludes the Service Provider from carrying

such other insurance as may be deemed necessary by the Service Provider for the operation of the Service Providers business or for the benefit of the Service Provider's employees

G. Notwithstanding any other provision of the contract to the contrary, no insurance procured by the Service Provider shall be construed to constitute a waiver of any sovereign immunity as set forth in section 537.600 through 537.650 of the Missouri Revised Statutes, or any other governmental or official immunity, which is barred under said doctrines of sovereign, governmental or official immunity available to the City, its Board of Aldermen, salaried officers or employees, nor constitute waiver of any available defense. The Service Provider shall cause all policies of insurance related to the contract to be endorsed in accord to this subparagraph.

G. If this is a multi-year contract then the Service Provider shall further require the upper limits of coverage of such policies to be adjusted on an annual basis to be at least equal to the limits of liability set forth in section 537.610.2 and 537.610.5 of the Missouri Revised Statutes as amended from time to time.

I. Insurance Certificates. It is the sole responsibility of the Service Provider to provide the City with the most up-to-date insurance certificates and to keep them current throughout the term of the contract and for any renewal periods. Any failure to maintain insurance coverage shall not relieve any contractual responsibility, obligation or liability under the contract documents. Insurance Certificates must be faxed or mailed to the address provided.

18. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

19. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ ____ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

20. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this

agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

By:

Name:

Address:

Phone:

Fax:

Tax ID:

ATTEST:

Lisa K Westfall
City Clerk

City of Branson, Missouri

By:

Raeanne Presley
Mayor

APPROVED AS TO FORM:

William T. Duston
City Attorney

Brenntag Mid-South
2234 W. Battlefield Rd.
Springfield, MO 65807

SCOPE OF WORK

1. Purpose: To provide water/wastewater treatment chemicals for the period of January 1, 2011 through December 31, 2011. Prices must remain firm through the contract period.
2. General Requirements:
 - 2.1 All gases and chemicals must be of acceptable quality.
 - 2.2 Contractor agrees to supply cylinders and containers that show evidence of a high standard of maintenance. Cylinders and containers will not show excessive rust, corrosion, scaling, or deterioration. Valves will open without undue pressure. Unused lead gaskets will be supplied with all chlorine and sulfur dioxide cylinders. Contractor agrees to pickup, immediately, any chlorine and sulfur dioxide cylinders requiring the use of a repair kit. A replacement repair kit must be returned to the City within three (3) calendar days. If, at any time the contractor fails to meet or correct problems, involving safety, product quality or equipment, the City retains the right to cancel the contract. In the event of cancellation, the City may purchase in such a manner as the Purchasing Agent may deem appropriate from the next lowest bidder meeting specifications, and the Contractor will be liable for excess costs incurred.
 - 2.3 Samples will be taken from each individual load of liquid aluminum sulfate and water treatment coagulants upon delivery. Any sample taken which indicates solids separation of the product will result in **immediate rejection** of the load. The contractor at no expense to the City shall remove any solids buildup in the City's bulk storage tanks as a result of the product supplied, other than items requiring routine maintenance.
 - 2.4 All pricing must include shipping costs* and the waiving of all cylinder, drum, and carboy deposits.
 - 2.5 All chemicals must be priced by the pound (as applicable on a dry weight or wet weight basis), or gallon according to the basis shown on the pricing page including all shipping costs* for product delivered to various plants located in Branson, MO. (* Shipping costs shall include all cost related to the delivery and unloading of product to the proper place in the various locations, additions i.e. fuel surcharges, handling fees etc. will not be accepted.) Pricing given excluding freight will be considered non-compliant and the bid will be rejected. Companies delivering and unloading product on City property using their own trucks or subcontracting through a contract hauler will supply insurance, as

required in this contract.

- 2.6 The City agrees to maintain an inventory of cylinders, drums and carboy containers, where applicable, to be returned to the appropriate Contractor upon request and will assume responsibility for any lost or stolen cylinders.
- 2.7 Quantities given are estimated usage only and may be more or less depending upon demand. The City will pay only for the actual quantities ordered and received. Prices shall be as specified on the pricing page regardless of actual quantities ordered.
- 2.8 Current MSDS sheets must be furnished prior to receipt of the first shipment of product awarded in this contract.

PRICING PAGE

The seller must provide pricing information as specified below to provide chemicals as specified in accordance with the terms and conditions of this contract.

Type	Estimated Usage	Unit Price
008. Potassium Permanganate (330# drums)	11,000 lbs.	\$ 3.25 / lb.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF CUSTOM PRODUCTS CORPORATION PERTAINING TO SIGNAGE SUPPLIES.

FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: PUBLIC WORKS DEPARTMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Bids were received on October 13, 2010 for traffic signage supplies. These items include preprinted signs, sign blanks for the city to add lettering as needed, sign posts, barricades, etc. A portion of the supplies are simply to meet the city's annual signage needs. The remainder of the supplies are due to new federal requirements to upgrade the retroreflectivity of all street signs to meet the national guidelines.

Five different firms submitted the low bid on 110 different products. To obtain the overall lowest price for the needed items, each firm will be awarded the bid for the items for which they were lowest.

Custom Products Corporation was the low bidder on 49 different items. The total cost of these items to be purchased in the 2011 budget is \$16,880

The bids met the specifications and the low bid from Custom Products Corporation is recommended for the purchase.

STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 105-4121-530-20-65 

ATTACHED INFORMATION:

BILL NO. 3896

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF CUSTOM PRODUCTS CORPORATION PERTAINING TO SIGNAGE SUPPLIES AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, the City of Branson advertised for bids for signage supplies for traffic control and maintenance; and

WHEREAS, of the bids which were received, Custom Products Corporation has been recommended for approval; and

WHEREAS, the Board of Aldermen desire to award the contract to purchase signage supplies.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, AS FOLLOWS:

Section 1: The Board of Aldermen hereby accepts the proposal of Custom Products Corporation pertaining to the purchase of signage supplies pursuant to Exhibit "1", as attached hereto and incorporated herein by reference, and authorizes the Mayor to execute the agreement on behalf of the City of Branson.

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk


William T. Duston
City Attorney

**CITY OF BRANSON, MISSOURI
PURCHASE OF COMMODITIES CONTRACT**

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between the City of Branson, Missouri (the "City") and **Custom Products Corp.** ("Seller").

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

- 1. Item(s) and dates of Purchase.** The City agrees to purchase and the Seller agrees to sell the following item(s): **Sign Making Supplies, from a date commencing January 1, 2011 and ending December 31, 2011.**
- 2. Quantities to be Purchased and Purchase Price.**
 - a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
 - b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
 - c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **Sixteen Thousand Eight Hundred Eighty Dollars (\$16,880.00).**
- 3. Delivery and Shipment.**
 - a. The Seller is responsible for the costs of shipment.
 - b. Time is of the essence with respect to each shipment.
 - c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
 - d. Deliveries are to be made to: **625 Stockstill Lane, Branson, MO 65616.**

4. **Invoices.** An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.

5. **Inspection and Acceptance.**

- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
- b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
- c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.

6. **Warranty.**

- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
- b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
- c. Any implied warranties are not altered by this written contract.
- d. Additional terms: N/A

7. **Patents.** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.

8. **Bankruptcy or Insolvency.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.

9. **Compliance with Applicable Laws.** The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. **Jurisdiction.** This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. **Missouri Immigration Law Affidavit.** After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. **Entire Agreement.** This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

City of Branson, Missouri

By: Heidi McGee
Name: Custom Products Corp
Address: PO Box 51091
Jackman MS 39288
Phone: 601 933 8282
Fax: 601 932 7178

By: _____
Raeanne Presley
Mayor

Tax ID: 64-0701635

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk

WTD

William T. Duston
City Attorney

Custom Products Corp
PO Box 54091
Jackson, MS 39288-4091

SCOPE OF WORK

1. Purpose: To provide sign making supplies for the period commencing January 1, 2011 through December 31, 2011.
2. General Requirements:
 - 2.1 All products must be of acceptable quality. The City will not accept off colors, splices in coating on sheeted blanks or fish eyes (bubbles) in the sheeted coating. **All signs must be of Hi-Prismatic material.**
 - 2.2 Contractor agrees to replace defective products within ten (10) days. If, at any time, contractor fails to meet or correct problems involving the quality of the product or equipment, the City retains the right to cancel the contract. In the event of cancellation, the City may purchase in such manner as the Purchasing Agent may deem appropriate from the next lowest bidder meeting specifications, and the Contractor will be liable for excess costs incurred.
 - 2.3 All pricing must include shipping, delivered to facilities located in Branson, MO.
 - 2.4 Contractor shall use recycled products where appropriate.
 - 2.5 The City will pay only for the actual quantities ordered and received. Prices shall be as specified on the pricing page regardless of actual quantities ordered.
3. The City reserves the right to inspect the equipment prior to purchase.

PRICING PAGE

The seller must provide pricing information as specified below to provide sign making materials as specified in accordance with the terms and conditions of this contract.

Item	Product		Unit Price
001.	Stop Sign	30" x 30"	\$ _22.23_____
002.	Stop Sign	36" x 36"	\$ _31.06_____
003.	Do Not Enter Sign	30" x 30"	\$ _22.58_____
004.	Dead End Sign	30"	\$ _22.58_____
005.	Dead End Sign	36"	\$ _32.15_____
007.	45 MPH speed limit sign	36" x 48"	\$ _42.86_____
008.	Railroad Crossing sign	36"	\$ _32.15_____
011.	No Right Turn sign	30"	\$ _24.08_____
016.	Diamond Shape Blanks	30" (orange)	\$ _22.58_____
017.	Diamond Shape Blanks	36" (orange)	\$ _22.58_____
018.	Diamond Shape Blanks	30" (yellow)	\$ _22.58_____
019.	Square Shape Blanks	30" (orange)	\$ _22.58_____
020.	Square Shape Blanks	36" (orange)	\$ _32.15_____
021.	Sign blanks	24" x 36" (white w/black border)	\$ _21.61_____
022.	Sign blanks	36" x 48" (white w/black border)	\$ _42.86_____
036.	Reflective Sign Blanks	30" x 30" (white w/black border)	\$ _22.58_____
037.	Reflective Sign Blanks	30" x 30" (black w/white border)	\$ _22.58_____
038.	Reflective Sign Blanks	30" x 30" (yellow w/black border)	\$ _22.58_____
039.	Reflective Sign Blanks	36" x 30" (white w/black border)	\$ _27.09_____
040.	Reflective Sign Blanks	36" x 36" (white w/black border)	\$ _32.15_____
064.	Yield	30" x 30"	\$ _11.75_____

065.	STOP/SLOW turn paddle	18"	\$ _16.47_____
066.	STOP/SLOW turn paddle	24"	\$ _28.58_____
069.	Road & Bridge Delineators	10" x 30"	\$ _8.38_____
070.	Road & Bridge Delineators	12" x 36"	\$ _11.23_____
075.	Traffic Cones	18" (Hi-visible orange)	\$ _4.23_____
076.	Traffic Cones	28" (Hi-visible orange w/reflective bands	\$ _12.52_____
080.	Type III Object Markers	12" x 36" (left, right, chevron yellow/black)	\$ _11.23_____
081.	Post Cap 808 Series	2 3/8" OD	\$ _3.05_____
082.	Universal Bracket		\$ _2.25_____
085.	Metal Street Sign Posts (12')	2 3/8" O.D	\$ _18.82_____
086.	Metal Street Sign Posts (12')	Breakaway	\$ _51.14_____
088.	12" x 2 3/8 round post caps for flat blade street signs		\$ _8.00_____
090.	12" 90 degree cross pieces		\$ _7.99_____
093.	1 3/4" x 14' square breakaway post		\$ _71.89_____
095.	2 1/2" x 16' square breakaway post		\$ _94.35_____
096.	2 1/2" x 36" stub pipe for 2 1/2" square post		\$ _10.70_____
097.	2" x 36" stub pipe for 1 3/4" square post		\$ _9.14_____
098.	2 3/8" 12' thin wall post		\$ _18.82_____
099.	Snap lock assembly 9 1/16"x40" (hose clamps) w/sign bracket		\$ _4.90_____
101.	A-Frame barricades 8' single board (High-Intensity)		\$ _75.41_____
102.	Galvanized Tri-pod sign stand		\$ _24.89_____
104.	Type III plastic barricades w/2 legs		\$ _206.03_____
105.	Type III barricade board (A-Frame) reflective 2 sided		\$ _45.65_____
106.	Type III A-Frame legs		\$ _29.76_____

107.	Barricade sheeting (50 yard roll) orange/white	\$ _152.75____
108.	Barricade lights yellow	\$ _13.16____
110.	Channelizer Barrels	\$ _54.98____
111.	Channelizer Cones	\$ _29.65____

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF IBIS TEK APPAREL LLC PERTAINING TO SIGNAGE SUPPLIES.

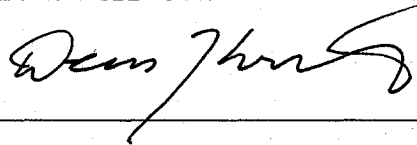
FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: PUBLIC WORKS DEPARTMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

Bids were received on October 13, 2010 for traffic signage supplies. These items include preprinted signs, sign blanks for the city to add lettering as needed, sign posts, barricades, etc. A portion of the supplies are simply to meet the city's annual signage needs. The remainder of the supplies are due to new federal requirements to upgrade the retroreflectivity of all street signs to meet the national guidelines.

Five different firms submitted bids on 110 different products. To obtain the overall lowest price for the needed items, each firm will be awarded the bid for the items for which they were lowest.

Ibis Tek Apparel LLC was the low bidder on 29 different items. The total cost of these items to be purchased in the 2011 budget is \$18,520.

The bids met the specifications and the low bid from Ibis Tek Apparel LLC is recommended for the purchase.

STAFF RECOMMENDATION:

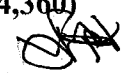
Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 105-4121-530-40-23 (\$4,160) and 601-0750-510-90-10 (\$14,360)

ATTACHED INFORMATION:



BILL NO. 3897

ORDINANCE NO. _____

**AN ORDINANCE ACCEPTING THE PROPOSAL OF IBIS TEK APPAREL LLC
PERTAINING TO SIGNAGE SUPPLIES AND AUTHORIZING THE MAYOR TO
EXECUTE THE CONTRACT.**

WHEREAS, the City of Branson advertised for bids for signage supplies for traffic control and maintenance; and

WHEREAS, of the bids which were received, Ibis Tek Apparel LLC has been recommended for approval; and

WHEREAS, the Board of Aldermen desire to award the contract to purchase signage supplies.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE
CITY OF BRANSON, AS FOLLOWS:**

Section 1: The Board of Aldermen hereby accepts the proposal of Ibis Tek Apparel LLC pertaining to the purchase of signage supplies pursuant to Exhibit "1", as attached hereto and incorporated herein by reference, and authorizes the Mayor to execute the agreement on behalf of the City of Branson.

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.


Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

**CITY OF BRANSON, MISSOURI
PURCHASE OF COMMODITIES CONTRACT**

THIS AGREEMENT made and entered into this _____ day of _____, 2010, by and between the City of Branson, Missouri (the "City") and **Ibis Tek Apparel LLC** ("Seller").

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

1. Item(s) and dates of Purchase. The City agrees to purchase and the Seller agrees to sell the following item(s): **Sign Making Supplies, from a date commencing January 1, 2011 and ending December 31, 2011.**

2. Quantities to be Purchased and Purchase Price.

- a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
- b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
- c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **Eighteen Thousand Five Hundred Twenty Dollars (\$18,520.00).**

3. Delivery and Shipment.

- a. The Seller is responsible for the costs of shipment.
- b. Time is of the essence with respect to each shipment.
- c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
- d. Deliveries are to be made to: **625 Stockstill Lane, Branson, MO 65616.**

- 4. Invoices.** An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.
- 5. Inspection and Acceptance.**
- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
 - b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
 - c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.
- 6. Warranty.**
- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
 - b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
 - c. Any implied warranties are not altered by this written contract.
 - d. Additional terms: N/A
- 7. Patents.** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.
- 8. Bankruptcy or Insolvency.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.
- 9. Compliance with Applicable Laws.** The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

By:

Rachel Berglund
Name: RACHEL BERGLUND
Address: 472 PINEBORG RD
ROTLER PA 16002
Phone: 724-431-3072
Fax: 724-586-2179

Tax ID: 20-4261224

ATTEST:

Lisa K Westfall
City Clerk

City of Branson, Missouri

By:

Raeanne Presley
Mayor

APPROVED AS TO FORM:

William T. Duston
City Attorney

IBIS TEK APPAREL LLC
496 Pittsburgh Road
Butler PA 16002

SCOPE OF WORK

1. Purpose: To provide sign making supplies for the period commencing January 1, 2011 through December 31, 2011.
2. General Requirements:
 - 2.1 All products must be of acceptable quality. The City will not accept off colors, splices in coating on sheeted blanks or fish eyes (bubbles) in the sheeted coating. **All signs must be of Hi-Prismatic material.**
 - 2.2 Contractor agrees to replace defective products within ten (10) days. If, at any time, contractor fails to meet or correct problems involving the quality of the product or equipment, the City retains the right to cancel the contract. In the event of cancellation, the City may purchase in such manner as the Purchasing Agent may deem appropriate from the next lowest bidder meeting specifications, and the Contractor will be liable for excess costs incurred.
 - 2.3 All pricing must include shipping, delivered to facilities located in Branson, MO.
 - 2.4 Contractor shall use recycled products where appropriate.
 - 2.5 The City will pay only for the actual quantities ordered and received. Prices shall be as specified on the pricing page regardless of actual quantities ordered.
3. The City reserves the right to inspect the equipment prior to purchase.

PRICING PAGE

The seller must provide pricing information as specified below to provide sign making materials as specified in accordance with the terms and conditions of this contract.

Item	Product	Unit Price
041.	Flat Aluminum Blades 6" x 24" (green prism both sides)	\$ _5.38_____
042.	Flat Aluminum Blades 6" x 30" (green prism both sides)	\$ _6.69_____
043.	Flat Aluminum Blades 6" x 36" (green prism both sides)	\$ _8.02_____
044.	Flat Aluminum Blades 9" x 12" (green prism both sides)	\$ _4.03_____
046.	Flat Aluminum Blades 9" x 24" (green prism both sides)	\$ _8.07_____
047.	Flat Aluminum Blades 9" x 30" (green prism both sides)	\$ _10.00_____
048.	Flat Aluminum Blades 9" x 36" (green prism both sides)	\$ _12.04_____
050.	Flat Aluminum Blades 18" x 64" (green prism both sides)	\$ _42.84_____
051.	Flat Aluminum Blades 18" x 72" (green prism both sides)	\$ _48.15_____
052.	Flat Aluminum Blades 6" x 24" (white prism both sides)	\$ _5.38_____
053.	Flat Aluminum Blades 6" x 30" (white prism both sides)	\$ _6.69_____
054.	Flat Aluminum Blades 6" x 36" (white prism both sides)	\$ _8.02_____
055.	Flat Aluminum Blades 9" x 12" (white prism both sides)	\$ _4.03_____
056.	Flat Aluminum Blades 9" x 18" (white prism both sides)	\$ _6.06_____
057.	Flat Aluminum Blades 9" x 24" (white prism both sides)	\$ _8.07_____
058.	Flat Aluminum Blades 9" x 30" (white prism both sides)	\$ _10.00_____
059.	Flat Aluminum Blades 9" x 36" (white prism both sides)	\$ _12.04_____
060.	Flat Aluminum Blades 18" x 60" (white prism both sides)	\$ _40.01_____
061.	Flat Aluminum Blades 18" x 64" (white prism both sides)	\$ _42.84_____
062.	Flat Aluminum Blades 18" x 72" (white prism both sides)	\$ _48.15_____
063.	Yield 24" x 24"	\$ _7.83_____

067.	Slow Moving vehicle Emblem (Orange reflective triangle)	\$ _5.45_____
068.	Road & Bridge Delineators 6" x 24"	\$ _4.46_____
071.	Diamond button delineators 18"	\$ _8.82_____
072.	Diamond button delineators 24"	\$ _15.66_____
073.	Chevrons 24" x 30" (yellow/black)	\$ _19.43_____
077.	Reflective Post Strips 4" x 72" (yellow)	\$ _6.66_____
078.	Reflective Post Strips 3" x 72" (red)	\$ _4.99_____
079.	Reflective Post Strips 3" x 72" (white)	\$ _4.99_____

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: READING OF A BILL ACCEPTING THE PROPOSAL OF KEY EQUIPMENT & SUPPLY COMPANY PERTAINING TO AN ELGIN PELICAN STREET SWEEPER AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

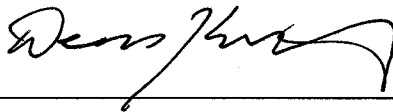
FIRST READING: JANUARY 11, 2011

FINAL READING: JANUARY 25, 2011

INITIATED BY: PUBLIC WORKS DEPARTMENT 

CITY ADMINISTRATOR RECOMMENDATION:

Recommend approval of the bill.



STAFF REPORT:

The city's existing street sweeping equipment is mechanically obsolete and in need of replacement. The approved 5-year capital budget plan anticipated the purchase of a replacement street sweeper and funds were included in the 2011 budget.

Municipalities can obtain better and lower bids on equipment by utilizing the State of Missouri's existing bidding process. By combining the purchasing power of the state along with many cities and counties, the vendors are able to supply the equipment at very low cost. The low bidder on the state contract for street sweepers and equipment (MO Contract #3-080213) was Key Equipment and Supply Company. The bid is:

Elgin Pelican NP Dual Mechanical Street Sweeper w/Options

\$172,800.00

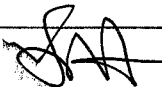
STAFF RECOMMENDATION:

Staff recommends approval of the bill.

PROPOSED MOTION:

Move to approve the bill.

FINANCIAL REVIEW: 105-4121-530-90-20



ATTACHED INFORMATION:

BILL NO. 3898

ORDINANCE NO. _____

AN ORDINANCE ACCEPTING THE PROPOSAL OF KEY EQUIPMENT & SUPPLY CO. PERTAINING TO AN ELGIN PELICAN STREET SWEEPER AND AUTHORIZING THE MAYOR TO EXECUTE THE CONTRACT.

WHEREAS, in accordance with the State of Missouri's purchasing procedures, the City of Branson is allowed to utilize the state bids for purchasing municipal equipment; and

WHEREAS, Key Equipment & Supply Co. is the low bidder as determined by Missouri State Contract #3-080213 for equipment needed by the City of Branson identified in the 5-year capital budget plan; and

WHEREAS, the Board of Aldermen desires to award the contract for the purchase of the equipment.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, AS FOLLOWS:

Section 1: The Board of Aldermen hereby accepts the proposal of Key Equipment & Supply Co. pertaining to an Elgin Pelican NP Dual Mechanical Street Sweeper for a total amount of \$172,800.00 and authorizes the Mayor to execute the contract attached hereto as Exhibit "1".

Section 2: This ordinance shall be in full force and effect upon and after its passage and approval.

Read, this first time on this _____ day of _____, 2011.

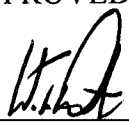
Read, this second time, passed and truly agreed to by the Board of Aldermen of the City of Branson, Missouri this _____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk



William T. Duston
City Attorney

**CITY OF BRANSON, MISSOURI
PURCHASE OF COMMODITIES CONTRACT**

THIS AGREEMENT made and entered into this _____ day of _____, 2011, by and between the City of Branson, Missouri (the "City") and **Key Equipment and Supply Co. ("Seller")**.

WHEREAS, the City of Branson desires to purchase and the Seller agrees to sell to the City certain commodities more particularly described in **Exhibit A** (bid); and

WHEREAS, the Seller made certain representations and statements to the City with respect to the provision of such commodities and the City has accepted the Seller's proposal;

The City and the Seller agree as follows:

- 1. Item(s) and dates of Purchase.** The City agrees to purchase and the Seller agrees to sell the following item(s): **One (1) Elgin Pelican Street Sweeper, from a date, commencing with the execution of this contract and ending April 1, 2011.**
- 2. Quantities to be Purchased and Purchase Price.**
 - a. The City agrees to purchase and the Seller agrees to sell the following quantities/amounts for the purchase price(s) listed: **See Exhibit B.**
 - b. The City assumes no obligations for articles or materials shipped in excess in the quantity ordered. Any unauthorized quantity is subject to the City's rejection and may be returned at the Seller's expense.
 - c. It is expressly understood that in no event will the total compensation and reimbursement to be paid to the Seller under the terms of this contract exceed the sum of **One Hundred Seventy Two Thousand Eight Hundred Dollars (\$172,800.00).**
- 3. Delivery and Shipment.**
 - a. The Seller is responsible for the costs of shipment.
 - b. Time is of the essence with respect to each shipment.
 - c. If deliveries are not made **upon demand**, the City reserves the right to cancel this contract, purchase the commodities elsewhere, and hold the Seller liable for any re-procurement costs.
 - d. Deliveries are to be made to: **625 Stockstill Lane, Branson, MO 65616.**

- 4. Invoices.** An original and three copies of the invoice shall be submitted by the Seller to the City, showing the purchase order number or contract number and containing a full description of the commodities furnished.
- 5. Inspection and Acceptance.**
- a. No goods received by the City pursuant to this contract shall be deemed accepted until the City has had reasonable opportunity to inspect said goods.
 - b. All goods discovered to be defective (at any time) or which do not conform to any bid specifications or to any warranty of the Seller may be returned at the Seller's expense for full refund or replacement.
 - c. The City's right to return defective and/or non-conforming goods does not bar any other legal, equitable or contractual remedies the City may have against the Seller.
- 6. Warranty.**
- a. Seller expressly warrants that all articles, materials and work covered by this contract conform to each and every specification, drawing, sample or other description which is furnished to or is adopted by the City and that they will be fit and sufficient for the purpose intended, merchantable, of good material and workmanship, and free from defect.
 - b. Such warranty shall not be deemed waived either by reason of the City's acceptance of said material or goods or by payment for them.
 - c. Any implied warranties are not altered by this written contract.
 - d. Additional terms: N/A.
- 7. Patents.** Seller guarantees that the sale or use of the articles described herein will not infringe upon any U.S. or foreign patent and Seller covenants that he will, at his own expense, defend every suit which may be brought against the City, or those selling or using City's product for any alleged infringement of any patent by reason of the sale or use of such articles and Seller agrees that he will pay all costs, damages and profits recoverable in any such suit.
- 8. Bankruptcy or Insolvency.** In the event of any proceedings by or against either party, voluntary or involuntary, in bankruptcy or insolvency, or for the appointment of a receiver or trustee or an assignee for the benefit of creditors, of the property of Seller, or in the event of breach of any of the terms hereof including in the warranties of the Seller, City may cancel this contract or affirm the contract and hold Seller responsible in damages.
- 9. Compliance with Applicable Laws.** The Seller warrants it has complied with all Applicable laws, rules and ordinances of the United States, or any state, municipality or any other governmental authority or agency in the manufacture or sale of the items covered by this contract, including but not limited to all provisions of the Fair Labor Standard Act of 1938, as amended.

- 10. Conflicts.** Any bidder or signee of this contract shall disclose any financial relationship (direct or indirect) to salaried officer, employee of the City or member of the City Board of Aldermen in writing at the time of the execution of this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Service Provider covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Service Provider further covenants that in the performance of this contract no person having such interest shall be employed.
- 11. Interpretation of Contract and Assignments.** The contract shall be construed according to the laws of the State of Missouri. Seller hereunder may not assign the contract, or any rights, obligations or duties without City's written consent or any attempted assignment without such consent shall be void.
- 12. Termination of Contract.** The City reserves the right to terminate the contract at any Time if any of the provisions of the contract are violated by the Seller, in the sole judgment and discretion of The City. In the event of such termination, the Seller shall be liable for any excess costs incurred by the City. If the contract is terminated, the City may purchase upon such terms and in such manner as the Purchasing Agent may deem appropriate, supplies or services similar to the good identified in this contract; the Seller will be liable for any excess costs occasioned thereby.
- 13. Non-discrimination in Employment.** In connection with the furnishing of supplies or performances or work under this contract, the Seller agrees to comply with the Fair Labor Standard Act, Fair Employment Practices, Equal Opportunity Employment Act, and all other applicable federal and state laws, and further agrees to insert the foregoing provision in all subcontracts awarded hereunder. The Seller agrees in the performance of this contract not to discriminate on the ground or because of race, creed, color, national origin or ancestry, sex, religion, handicap, age, or political opinion or affiliation, against any employee of Seller or applicant for employment and shall include a similar provision in all subcontracts let or awarded hereunder.
- 14. Provisions by Law Deemed Inserted.** Each and every provision of the law and clauses required by law to be inserted in this contract will be deemed to be inserted herein and will be read and enforced as though it were included herein, and if through mistake, or otherwise any such provision is not inserted, then upon the application of either party the contract will be physically amended to make such insertion or correction.
- 15. Tax-Exempt.** The City of Branson is exempt from Sales Tax and Federal Excise Tax.
- 16. Conflicts.** No salaried officer or employee of the City, and no member of the City Board of Aldermen shall have a financial interest, direct or indirect, in this contract. A violation of this provision renders the contract void. Any federal regulations, and applicable provisions in Section 105.450 et seq. RSMo. shall not be violated. Seller covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which would conflict in any manner or degree with the performance of work to be performed under this contract. The Seller further covenants that in the performance of this contract no person having such interest shall be employed.

17. Jurisdiction. This agreement and every question arising hereunder shall be construed or determined according to the laws of the State of Missouri. Should any part of this agreement be litigated, venue shall be proper only in the Circuit Court of Taney County, Missouri.

18. Missouri Immigration Law Affidavit. After January 1, 2009, the Seller takes note that Section 285.530.2 of the Missouri Revised Statutes requires a political subdivision as a condition of a contract or grant in excess of \$5,000 awarded after January 1, 2009, to require the business entity to affirm by sworn affidavit and provision of documentation the business entity has enrolled and participated in a federal work authorization program with respect to its employees who work in connection with the contracted services. To that end, the Seller will provide a signed affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contract. The Seller will provide with their bid specifications and bonding information a statement that the company has such a program, documentation for the program, and that it will not employ unauthorized aliens in connection with the work.

☐ If this box is checked, then the requirement for Immigration Law Affidavit does not apply because the dollar value of the contract is less than the \$5,000 minimum.

19. Entire Agreement. This agreement contains the entire agreement of the parties. No modification, amendment, or waiver of any of the provisions of this agreement shall be effective unless in writing specifically referring hereto, and signed by both parties.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year herein stated.

Seller:

By: Kent Fahnholz
Name: Key Equipment & Supply Co.
Address: 6716 Berger Ave.
Kansas City, KS 66111
Phone: 800-262-0149
Fax: 913-788-4093

Tax ID: 43-0789228

ATTEST:

Lisa K Westfall
City Clerk

City of Branson, Missouri

By: _____
Raeanne Presley
Mayor

APPROVED AS TO FORM:

W. T. Duston
William T. Duston
City Attorney

SCOPE OF WORK

Purpose: To purchase an Elgin Pelican NP Dual Mechanical Street Sweeper.

General Requirements:

Air Cleaner, two-stage, dry type with restriction indicator
Alternator 120 amp
Anti-Siphon water fill
Automatic engine shutdown (oil pressure/engine temperature)
Automatic pickup in reverse
Return to sweep feature
Back-up alarm, electric
Battery, maintenance free
Brakes, power
Broom, main, prefab, disposable
Broom, main, hydraulically suspended
Broom, main, in-cab pressure controlled
Broom, side broom, hydraulically suspended
Broom, side broom, in cab pressure control
Bumper pads, front jack
Coolant recovery system
Doors, see-thru with sliding upper windows
Engine, hour meter
Fenders, over front wheels
Flushing system for hopper/conveyor
Fuel tank, 35 gallons
Gauges & Warning lights for engine oil temp, engine oil pressure, fuel level, speedometer, odometer with trip set
Heater, pressurizer with filtered air, defroster
Hose, hydrant fill, 16'8" with coupling
Light, spotlight, adjustable, one per side broom
Lights, 2 combination, tail/stop lights
Lights, headlights, multiple beam
Lights, flashing sweep warning lamps
Lights, low water light
Low Hydraulic warning
Manuals, operator and parts
Mirror, inside rearview
Mirrors, outside, front mounted 6" fish eyes
Mirrors, outside, west coast type, one each side
Parking brake with interlock
Seat Belts (both sides for dual)
Seats, extra wide cordura suspension seats with armrests
Sprung guide wheel, heavy duty

Steering wheel, tilt and telescoping
Signals, self-canceling directional with hazard switch
Sun visor(s)
Tachometer, diesel engine
Tires, tubeless radials
Tow loops, four
Water tank, fill gauge
Water tank, molded polyethylene, 220 gallon total nominal capacity
Wheels, dual guide
Windshield, tinted
Windshield washer
Windshield wipers with intermittent setting
B20 Biodiesel compatible
Fuel Water separator with indicator light
Rear camera & in-cab monitor
Electronic throttle

In addition to the standard features, the following product enhancements meet and/or exceed the current MoDOT specifications:

Robert Shaw automatic lubrication system with an individual pump for each zerk
LifeLiner hopper coating system with lifetime limited warranty
Left and Right LED strobe lights with limp protectors mounted on cab
Left and Right gutter broom tilt angle control from in cab
LED arrowstick mounted to top rear of cab (MoDOT Special arrowboard Not Available) Show location
All brooms raise when vehicle is placed in reverse
AM/FM stereo weatherband with CD player and two speakers
Sweeper painted yellow (white)
Air Conditioner
Heated remote controlled mirrors
Alternating LED strobe lights flush mounted to rear of sweeper
Sweep resume after transport (details)
Side broom tilt controlled from cab with gauges
Automatic engine shutdown for low hydraulic level
Service, parts and operators and manuals to meet specifications

PRICING PAGE

Elgin Pelican NP Dual Mechanical Street Sweeper (MoDOT Bid 3-080213) \$170,795.00

Options

Yellow paint	(350.00)
Midwest Auto Lube	(4,960.00)
LifeLiner Hopper Coating	(2,250.00)
Carbide Drag Shoes	960.00
Traction Assist	3,420.00
LED Stop/Turn/Back up Lights	270.00
Block Heater	285.00
Toolbox for Leaf Blower	750.00
Left Hand Toolbox	495.00
Elgin Warranty 2 Year Parts & Labor (covers road service fee)	3,000.00
Engine Pre-Cleaner	385.00

TOTAL PRICE DELIVERED TO CITY OF BRANSON \$172,800.00

Price is good through February 28, 2011

Includes on site factory certified training by Key Equipment for service and operation

Payment terms are Net 10

Delivery in approximately 45 – 90 days A.R.O.

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: A RESOLUTION CONSENTING TO ASSIGNMENT OF LEASE AND DEED TRUST OF LEASEHOLD ESTATE AND SECURITY AGREEMENT BY RECREATIONAL INVESTMENTS AND MANAGEMENT, INC. TO OZARK MOUNTAIN BANK AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT.

DATE: JANUARY 11, 2011

INITIATED BY: ADMINISTRATION

CITY ADMINISTRATOR RECOMMENDATION:

Recommend adoption of this Resolution.



STAFF REPORT:

The City of Branson entered into a Lease Agreement with Recreational Investments and Management, Inc. on September 27, 1982, for the lease of certain property at the Old Airport, with Addendum to Lease Agreement dated November 28, 1988. The terms of the original lease provide that the Lessee shall have no right to assign or sublet any leasehold interest without the written consent of the Board of Aldermen. A request is being submitted for the Board of Aldermen to consent to an assignment of its lease interests for the purpose of a securing a deed of trust to Ozark Mountain Bank.

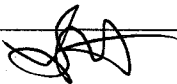
STAFF RECOMMENDATION:

Staff recommends adopting the Resolution.

PROPOSED MOTION:

Move to adopt the Resolution.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION:

RESOLUTION NO. _____

A RESOLUTION CONSENTING TO ASSIGNMENT OF LEASE AND DEED TRUST OF LEASEHOLD ESTATE AND SECURITY AGREEMENT BY RECREATIONAL INVESTMENTS AND MANAGEMENT, INC. TO OZARK MOUNTAIN BANK AND AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT.

WHEREAS, the City of Branson entered into a Lease Agreement with Recreational Investments and Management, Inc. on September 27, 1982, for the lease of certain property at the Old Airport, with Addendum to Lease Agreement dated November 28, 1988; and

WHEREAS, the terms of said Lease provide that the Lessee shall have no right to assign or sublet any leasehold interest without the written consent of the Board of Aldermen; and

WHEREAS, Lessee has requested the Board of Aldermen consent to an assignment of its lease interests for the purpose of a securing a deed of trust to Ozark Mountain Bank.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI AS FOLLOWS:

Section 1: The Board of Aldermen hereby consents to the Assignment of Lease and Deed Trust of Leasehold Estate and Security Agreement by Recreational Investments and Management, Inc. to Ozark Mountain Bank and authorizing the Mayor to execute the agreement attached hereto as Exhibit "1".

Section 2: This Resolution shall be in full force and effect from and after its passage and approval by the Board of Alderman.


ADOPTED by the Board of Aldermen of the City of Branson, Missouri, this ____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:

Lisa K Westfall
City Clerk


William T. Duston
City Attorney

**CONSENT TO ASSIGNMENT OF LEASE AND
DEED OF TRUST OF LEASEHOLD ESTATE AND SECURITY AGREEMENT**

THIS CONSENT TO ASSIGNMENT OF LEASE AND DEED OF TRUST OF LEASEHOLD ESTATE AND SECURITY AGREEMENT made this _____ day of December, 2010, by CITY OF BRANSON, MISSOURI, 110 West Maddux Street, Branson, Taney County, Missouri 65616 ("Grantor"), in favor of OZARK MOUNTAIN BANK ("Grantee") whose mailing address is P.O. Box 130, Branson, Taney County, Missouri 65615, with respect to the following facts and objectives:

A. Grantor is Lessor under a Lease Agreement dated September 27, 1982, with Addendum to Lease Agreement dated November 28, 1988, with RECREATIONAL INVESTMENTS AND MANAGEMENT, INC., as "Lessee" ("Lease") covering the premises ("Premises") described as follows:

That part of the Old Branson Airport consisting of approximately Seven Hundred Fifty (750) feet of frontage on Highway 76 West, beginning at a point described as the Southwest corner of Plot 5 of Plot 2 of the SW¼ of the NE¼ of Section 2, Township 22N, Range 22W, and running North along said highway for approximately 750 feet, the exact boundary and legal description to be determined by a survey to be made by Lessor immediately upon the execution of this Lease, said survey to be attached hereto and made a part hereof after being signed by the Mayor and City Clerk of Lessor and the President and Secretary of Lessee; (the northernmost 50 feet to be developed into a Malibu Track or other similar revenue producing recreational activity within two (2) years of this date, and failing such, Lessee's right to said 50 feet to terminate and City may use same for other purposes);

Also access thereto from Missouri Highway 76 and, if possible, from Gretna Road;

Also the rights and easements in land adjacent to and North of the above land required by paragraph 7 herein for a sewage system for leased premises;

Also, such other rights and easements as are available for Lessee of such land on the Old Branson Airport property.

B. Lessee, RECREATIONAL INVESTMENTS AND MANAGEMENT, INC., desires to convey to OZARK MOUNTAIN BANK an Assignment of the aforesaid Lease and Deed of Trust of Leasehold Estate and Security Agreement as collateral for a loan to THE TRACK, LLC ("Borrower"), represented by a promissory note dated December 20, 2010 in the amount of Two Million Two Hundred Thousand Dollars (\$2,200,000.00).; and

C. Grantor desires to consent to such assignments of the Lease and Deeds of Trust of Leasehold Estate and Security Agreement in favor of OZARK MOUNTAIN BANK.

Page 2 of 2

**Branson Board of Aldermen
Staff Report and Recommendation**

ITEM/SUBJECT: A RESOLUTION APPROVING THE CITY OF BRANSON'S BLUE ACCESS
PPO HEALTH INSURANCE SUMMARY OF BENEFITS.

DATE: JANUARY 11, 2011

INITIATED BY: FINANCE DEPARTMENT

CITY ADMINISTRATOR RECOMMENDATION:

Recommend adoption of this Resolution.



STAFF REPORT:

On December 14, 2010, Bill Number 3859 was passed accepting the proposals of Anthem Blue Cross Blue Shield as the POS and PPO healthcare provider for City of Branson full-time employees and retirees. Included with the Master contract were Premium Summary pages and the Summary of Benefits pages. These pages have now been executed by the Mayor and forwarded to Anthem. Inadvertently, the Summary of Benefits page for the PPO policy was omitted.

As a housekeeping measure, staff is requesting passage of the Resolution to accept the Anthem Blue Cross Blue Shield PPO Summary of Benefits page and execute the same.

STAFF RECOMMENDATION:

Staff recommends adopting the Resolution.

PROPOSED MOTION:

Move to adopt the Resolution.

FINANCIAL REVIEW: N/A



ATTACHED INFORMATION: PPO Premium Summary

CITY OF BRANSON

00126979, 00127389

Premium Summary

Effective 01/01/2011

Product: ACCESS PPO

NOTE: 80/50, \$250 ded (3x), \$750/1500 OPL (2x), \$20/20 OV, 20% ER, 20/50% UC, \$8/20/35/25% retail, \$16/50/90/25% mail order

	# of Contracts	Current Rates	Renewal Rates
Subscriber Only	0	\$558.68	\$640.81
Subscriber + Spouse	0	\$1,117.28	\$1,281.52
Subscriber + Child(ren)	0	\$977.58	\$1,121.28
Subscriber + Family	2	\$1,536.23	\$1,762.06
Monthly Premium	2	\$3,072.46	\$3,524.11
Annual Premium		\$36,869.52	\$42,289.34
Rate Change			14.70%

Signature _____

Date _____

RESOLUTION NO. _____

A RESOLUTION APPROVING THE CITY OF BRANSON'S BLUE ACCESS PPO HEALTH INSURANCE SUMMARY OF BENEFITS.

WHEREAS, Ordinance Number 2010-140 was passed on December 14, 2010 accepting the proposals of Anthem Blue Cross Blue Shield as the POS and PPO healthcare provider for City of Branson full-time employees and retirees; and

WHEREAS, Summary of Benefits pages for Blue Access PPO Health Insurance were inadvertently omitted from the attachments to the ordinance, approved by the Board of Aldermen; and

WHEREAS, the Board of Aldermen desires to accept the Anthem Blue Cross Blue Shield PPO Summary of Benefits pages and execute the same.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF ALDERMEN OF THE CITY OF BRANSON, MISSOURI AS FOLLOWS:

Section 1: The Board of Aldermen hereby approves the City of Branson's Blue Access PPO Health Insurance Summary of Benefits and authorizing the Mayor to execute the same attached hereto as Exhibit "1".

Section 2: This Resolution shall be in full force and effect from and after its passage and approval by the Board of Alderman.

ADOPTED by the Board of Aldermen of the City of Branson, Missouri, this ____ day of _____, 2011.

Raeanne Presley
Mayor

ATTEST:

APPROVED AS TO FORM:



Lisa K Westfall
City Clerk

William T. Duston
City Attorney

Your Summary of Benefits



**City of Branson
Blue Access® PPO**

Effective 01/01/2011

Please note: As we receive additional guidance and clarification from the U.S. Department of Health and Human Services, we may be required to make additional changes to your benefits.

Covered Benefits	Network	Non-Network
Deductible (Single/Family)	\$250/\$750	\$250/\$750
Out-of-Pocket Limit (Single/Family)	\$750/\$1,500	\$1,500/\$3,000
Physician Home and Office Services (PCP/SCP) Primary Care Physician (PCP)/ Specialty Care Physician (SCP) Including Office Surgeries and allergy serum: <ul style="list-style-type: none"> allergy injections (PCP and SCP) allergy testing MRAs, MRIs, PETS, C-Scans, Nuclear Cardiology Imaging Studies, non-maternity related Ultrasounds, 	\$20/\$20 \$5 20% 20%	50% 50% 50% 50%
Preventive Care Services Services include but are not limited to: Routine Exams, Pelvic Exams, Pap testing, PSA tests, Immunizations ¹ , Annual diabetic eye exam, Routine Vision and Hearing screenings <ul style="list-style-type: none"> Physician Home and Office Visits (PCP/SCP) Other Outpatient Services @ Hospital/Alternative Care Facility Immunizations through age 5 	\$20/\$20 20% No copayment/coinsurance	50% 50% No copayment/coinsurance
Emergency and Urgent Care Emergency Room Services <ul style="list-style-type: none"> facility/other covered services (copayment waived if admitted) Urgent Care Center Services	20% 20%	20% 50%
Inpatient and Outpatient Professional Services Include but are not limited to: <ul style="list-style-type: none"> Medical Care visits (1 per day), Intensive Medical Care, Concurrent Care, Consultations, Surgery and administration of general anesthesia and Newborn exams 	20%	50%
Blue 3.1		

Anthem Blue Cross and Blue Shield is the trade name for RightCHOICE® Managed Care, Inc. (RIT), Healthy Alliance® Life Insurance Company (HALIC), and HMO Missouri, Inc. RIT and certain affiliates administer non-HMO benefits underwritten by HALIC and HMO benefits underwritten by HMO Missouri, Inc. RIT and certain affiliates only provide administrative services for self-funded plans and do not underwrite benefits. Independent licensees of the Blue Cross and Blue Shield Association. ©ANTHEM is a registered trademark. The Blue Cross and Blue Shield names and symbols are registered marks of the Blue Cross and Blue Shield Association.

Your Summary of Benefits

Covered Benefits	Network	Non-Network
Inpatient Facility Services Unlimited days except for: <ul style="list-style-type: none"> 60 days Network/Non-Network combined for physical medicine/rehab (limit includes Day Rehabilitation Therapy Services on an outpatient basis) 90 days Network/Non-Network combined for skilled nursing facility 	20%	50%
Outpatient Surgery Hospital/Alternative Care Facility <ul style="list-style-type: none"> Surgery and administration of general anesthesia 	20%	50%
Other Outpatient Services (network & non network combined) (including but not limited to): <ul style="list-style-type: none"> Non Surgical Outpatient Services For example: MRIs, C-Scans, Chemotherapy, Ultrasounds, and other diagnostic outpatient services. Home Care Services 90 visits (excludes IV Therapy) Durable Medical Equipment and Orthotics (excluding Prosthetic Devices, Limbs and Medical Supplies) Prosthetic Devices Prosthetic Limbs Physical Medicine Therapy Day Rehabilitation programs Hospice Care Ambulance Services 	20% 20% 20%	50% 50% 20%
Outpatient Therapy Services (Combined Network & Non-Network limits apply) <ul style="list-style-type: none"> Physician Home and Office Visits (PCP/SCP) Other Outpatient Services @ Hospital/Alternative Care Facility Limits apply to: <ul style="list-style-type: none"> Physical/Manipulation therapy excluding Chiropractic Services: 20 visits Occupational therapy: 20 visits Chiropractic Services: 26 visits(Network only) Speech therapy: Unlimited visits 	\$20/\$20 20%	50% 50%

Your Summary of Benefits

Covered Benefits	Network	Non-Network
Behavioral Health Services²: Mental Health and Substance Abuse (Network and Non-Network) <ul style="list-style-type: none"> ○ Inpatient Facility Services ○ Inpatient Professional Services ○ Physician Home and Office Visits (PCP/SCP) ○ Other Outpatient Services, Outpatient Facility @ Hospital/Alternative Care Facility, Outpatient Professional 	20% 20% \$20/\$20 20%	50% 50% 50% 50%
Human Organ and Tissue Transplants³ <ul style="list-style-type: none"> ○ Acquisition and transplant procedures, harvest and storage. 	No copayment/coinsurance	30%
Prescription Drugs⁴ Network Tier structure equals 1/2/3 (and 4, if applicable) <ul style="list-style-type: none"> ○ Network Retail Pharmacies: (30-day supply) Includes diabetic test strip ○ Anthem Rx Direct Mail Service: (90-day supply) Includes diabetic test strip <p>Member may be responsible for additional cost when not selecting the available generic drug.</p> <p>Medicare Rx - Wrap</p> <p>Specialty Medications must be obtained via our Specialty Pharmacy network in order to receive network level benefits.</p>	\$8/\$20/\$35* 25% up to \$2,500 out of Pocket max \$16/\$50/\$90* 25% up to \$2,500 out of Pocket Max Out of Pocket Limit \$2,500 - 4th tier	50% (min \$45) cost share brand ⁵ Not covered
Lifetime Maximum	Unlimited	Unlimited

Notes:

- Flat dollar copayments and Non Network Human Organ and Tissue Transplants are excluded from the out-of-pocket limits. Also Prescription Drug deductibles/copayments/coinsurance are excluded from the out-of-pocket limits.
- Deductible(s) apply only to covered medical services listed with a percentage (%) coinsurance. However, the deductible does not apply to Emergency Room Services where a copayment and a percentage (%) coinsurance applies and may not apply to some Behavioral Health services where coinsurance applies.
- Network and Non-network deductibles, copayments, coinsurance and out-of-pocket maximums are separate and do not accumulate toward each other.
- Dependent age: to end of the month which the child attains age 26
- Specialist copayment is applicable to all Specialists excluding General Physicians, Internist, Pediatricians, OB/GYNs and Geriatrics or any other Network Provider as allowed by the plan.
- When allergy injections are rendered with a Physicians Home and Office Visit, only the Office Visit cost share applies.
- No copayment/coinsurance means no deductible/copayment/coinsurance up to the maximum allowable amount. 0% means no coinsurance up to the maximum allowable amount. However, when choosing a Non-network provider, the member is responsible for any balance due after the plan payment.
- PCP is a Network Provider who is a practitioner that specializes in family practice, general practice, internal medicine, pediatrics, obstetrics/gynecology, geriatrics or any other Network provider as allowed by the plan.
- SCP is a Network Provider, other than a Primary Care Physician, who provides services within a designated specialty area of practice.

Your Summary of Benefits

- Certain diabetic and asthmatic supplies have no deductible/copayment/coinsurance up to the maximum allowable amount at network pharmacies, except diabetic test strips.
 - Benefit period = calendar year
 - Elective abortions are not covered.
 - Mammograms (Routine and Diagnostic) are subject to the PCP/OV cost share in Network office and outpatient facility settings.
 - Behavioral Health Services: Mental Health and Substance Abuse benefits provided in accordance with Federal Mental Health Parity.
 - Preventive Care Services that meet the requirements of federal and state law, including certain screenings, immunizations and physician visits.
 - Preventive Prescription Drugs that meet the requirements of federal and state law.
1. These covered services for age 6 and above are not subject to the deductible/copayment if you have a flat dollar copayment and if rendered without an office visit
 2. We encourage you to contact Our Mental Health Subcontractor to assure the use of appropriate procedures, setting and medical necessity. Refer to Schedule of Benefits for limitations.
 3. Kidney and comea are treated the same as any other illness and subject to the medical benefits.
 4. If applicable, all prescription drug expenses except tier 1, (Network/Non-network, Retail/Mail-service combined) apply to the per individual RX deductible. Once the RX deductible is met, the appropriate copayment applies. Also if applicable, the Prescription Drug out of pocket maximum applies to Network Retail and Mail-Service combined.
 5. Rx non-network diabetic/asthmatic supplies not covered except diabetic test strips.

Precertification:

Members are encouraged to always obtain prior approval when using non-network providers. Precertification will help avoid any unnecessary reduction in benefits for non-covered or non-medically necessary services.

Pre-existing Exclusion Period:

We will not provide benefits for services, supplies or charges for any pre-existing condition for the time period specified below (subject to HIPAA portability requirements and excludes Members under age 19):

12 months after the member's enrollment date

A pre-existing condition is a condition (mental or physical) which was present and for which medical advice, diagnosis, care or treatment was recommended or received within the 6 month period ending on the member's enrollment date. Pregnancy and domestic violence are not considered a pre-existing condition. Genetic information may not be used as a condition in the absence of a diagnosis.

This summary of benefits is intended to be a brief outline of coverage. The entire provisions of benefits and exclusions are contained in the Group Contract, Certificate and Schedule of Benefits. In the event of a conflict between the Group Contract and this description, the terms of the Group Contract will prevail.

Grandfathered Health Plan

We believe this coverage is a "grandfathered health plan" under the Patient Protection and Affordable Care Act (the Affordable Care Act). As permitted by the Affordable Care Act, a grandfathered health plan can preserve certain basic health coverage that was already in effect when that law was enacted. Being a grandfathered health plan means that your plan may not include certain consumer protections of the Affordable Care Act that apply to other plans, for example, the requirement for the provision of preventive health services without any cost sharing. However, grandfathered health plans must comply with certain other consumer protections in the Affordable Care Act, for example, the elimination of lifetime limits on benefits.

Questions regarding which protections apply and which protections do not apply to a grandfathered health plan and what might cause a plan to change from grandfathered health plan status can be directed to the plan administrator or your Employer.

You may also contact the Employee Benefits Security Administration, U.S. Department of Labor at 1-866-444-3272 or www.dol.gov/ebsa/healthreform.

This website has a table summarizing which protections do and do not apply to grandfathered health plans.

You may also contact the U.S. Department of Health and Human Services at www.healthreform.gov.

This summary of benefits is intended to be a brief outline of coverage. The entire provisions of benefits and exclusions are contained in the Group Contract, Certificate and Schedule of Benefits. In the event of a conflict between the Group Contract and this description, the terms of the Group Contract will prevail.

By signing this Summary of Benefits, I agree to the benefits for the product selected as of the effective date indicated.

Authorized group signature (if applicable)	Date
--	------

Your Summary of Benefits

Underwriting signature (if applicable)	Date
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Your Summary of Benefits



City of Branson Cobra/Retiree Blue Access® PPO Effective 01/01/2011

Please note: As we receive additional guidance and clarification from the U.S. Department of Health and Human Services, we may be required to make additional changes to your benefits.

Covered Benefits	Network	Non-Network
Deductible (Single/Family)	\$250/\$750	\$250/\$750
Out-of-Pocket Limit (Single/Family)	\$750/\$1,500	\$1,500/\$3,000
Physician Home and Office Services (PCP/SCP) Primary Care Physician (PCP)/ Specialty Care Physician (SCP) Including Office Surgeries and allergy serum: <ul style="list-style-type: none"> allergy injections (PCP and SCP) allergy testing MRAs, MRIs, PETS, C-Scans, Nuclear Cardiology Imaging Studies, 	\$20/\$20 \$5 20% 20%	50% 50% 50% 50%
Preventive Care Services Services include but are not limited to: Routine Exams, Pelvic Exams, Pap testing, PSA tests, Immunizations ¹ , Annual diabetic eye exam, Routine Vision and Hearing screenings <ul style="list-style-type: none"> Physician Home and Office Visits (PCP/SCP) Other Outpatient Services @ Hospital/Alternative Care Facility Immunizations through age 5 	\$20/\$20 20% No copayment/coinsurance	50% 50% No copayment/coinsurance
Emergency and Urgent Care Emergency Room Services <ul style="list-style-type: none"> facility/other covered services (copayment waived if admitted) Urgent Care Center Services <ul style="list-style-type: none"> 	20% 20%	20% 50%
Inpatient and Outpatient Professional Services Include but are not limited to: <ul style="list-style-type: none"> Medical Care visits (1 per day), Intensive Medical Care, Concurrent Care, Consultations, Surgery and administration of general anesthesia and Newborn exams 	20%	50%
Blue 3.1		

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Your Summary of Benefits

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By signing this Summary of Benefits, I agree to the benefits for the product selected as of the effective date indicated.

Authorized group signature (if applicable)	Date
--	------

Your Summary of Benefits

Underwriting signature (if applicable)	Date
--	------